Q. Did you ever sign a statement to that effect?—A. No, sir; I never signed a statement to that effect. I would be crazy—I am mad enough now—but would be crazier than a bug, sir, if I said such a thing as that, because this man never told me such a thing, and how could I say it?

Q. Let me refresh your memory. Do you not know that a man by the name of John W. Peale had sued the Marian Coal Co. in Judge Archbald's court; that he had secured an injunction and taken an account, and that that suit was pending in the judge's court when this note was made?—A. I do not know such a thing. I did not know that case was on.

Q. You were in the judge's office very frequently, were you not?—A. Yes, sir.

Q. And did you not know something about the suits pending in the district court there?—A. I knew about it when it came on to trial; but I did not think it was on then.

Q. You do not think it was on then?—A. In 1909, was it not——

Q. Well, 1909?—A. This note was made, was it not, and in 1910 or 1911 that suit came on.

Q. The suit was determined then, but I am asking you if the suit was not pending?—A. No; it was determined in 1912.

Q. When were you subpœnaed to come down to the hearing before the Judiciary Committee? Was it Sunday, May 4?—A. Yes; it was on Sunday.

Q. Where were you on Monday next following? Where did you go?—A. I do not know.

Q. I ask you if you did not go to the judge's office immediately after you were subpœnaed to come here in the investigation before the Judiciary Committee of the House?—A. I do not remember.

Q. What, Mr. Williams?—A. I do not remember.

Q. Perhaps I can refresh your memory. I ask if you did not go to the judge's office to tell him you wanted to get the money to come down here; that John Henry Jones was there; that you renewed this very $500 note we have been talking about; that Jones took it back and the bank renewed it; and that you told the judge you would meet him at the depot, and he did meet you there and bought your ticket?—A. Yes; I know that.

Q. Did you go to the judge's office on Monday morning after you were subpœnaed on Sunday?—A. I forget; I do not remember.

Q. Speak a little louder, please, sir.—A. I do not remember whether I did or not; I do not remember about that.

Q. I ask you, then, if you did not swear before the Judiciary Committee of the House that you did go to Judge Archbald on the Monday following your subpœna on Sunday, and ask him for the money to come to Washington, and he told you he would meet you at the depot and give you a ticket, and he did do it?—A. Well, I do not remember that; but I did get the ticket anyhow.

Q. Did you go to Judge Archbald's office on Monday morning after you were subpœnaed on Sunday? You can answer that question.—A. Well, all I remember—I remember that I got the ticket. I do not remember that I went there on Monday.

Q. Do you remember seeing John Henry Jones in the judge's office?—A. No; I do not.

Q. Where did you get the ticket and from whom?—A. In the depot.

Q. From whom?—A. From the judge.

Q. How did you know that the judge was going to be at the depot?—A. I went there at the same time.

Q. How did you know that the judge was going to be at the depot if you had not seen him before that time?—A. I seen him going there.

Q. Had you not seen him in his office in the morning?—A. No; I did not go up with him from the office. I met him on the street.

Q. You met him on the street. What did you tell him?—A. I told him that I had no money to go down.

Q. Did you tell him that you were subpœnaed to come down here and testify against him?—A. To testify in this thing, anyhow.

Q. And at the depot he gave you the money, or rather the ticket, to come down here with?—A. He gave me the ticket; no money.

Q. You did not have money enough to come on?—A. No, sir; I did not.

Q. Where were all these transactions between you and Dainty and you and the judge about the Katydid dump and the Darling transaction had—in the judge's office in Scranton?—A. Some of them.

Q. Where were the others had?—A. It was those three, anyhow.

Q. Those three. Is the judge's office in the Federal building in Scranton?—A. Yes, sir.

Q. How often have you been in the judge's office during the last two years do you suppose?—A. Oh, very often; about three or four times a week maybe.

Q. Did you come down to Washington in February and testify in this Katydid matter?—A. What?

Q. Did you come to Washington on or about February 21, 1912, and testify before another tribunal, other than the Judiciary Committee, about this matter?—A. Yes.

Q. That was some time in February?—A. Yes.

Q. When you went back home did you tell the judge that you had testified down here?—A. What?

Q. When you went back to Scranton did you tell the judge that you had come down here and made this statement?—A. I did; yes.

Q. You say you did?—A. Yes.

Q. How long was it after you returned to Scranton that you told him that you had been down here?—A. I do not remember how long it was—whether it was the next day or whether it was in a week; I could not say.

Q. At any rate, immediately after you testified before the Attorney General?—A. I do not know.

Q. You did go back to Scranton and tell the judge about it?—A. I did tell him; yes.

Mr. CLARK of Wyoming. Mr. President, the Senate has now been in session since 12 o'clock. I doubt from the course of the examination whether this witness can conclude his testimony this evening; and, if it is entirely agreeable to the managers on the part of the House, I should like to make a motion that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. Manager WEBB. I will say, Mr. President, that that is entirely agreeable to the managers.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to, and (at 5 o'clock and 30 minutes p. m.) the Senate sitting as a Court of Impeachment adjourned.

The managers on the part of the House and the respondent and his counsel withdrew from the Chamber.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 31 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 5, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December 4, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who art the life and light of men, the inspiration of every great thought, noble deed, and honest endeavor in the fields of activity which lead on to the higher and better forms of life, inspire us, quicken our activities, that we may be worthy sons of the living God, and leave behind us a record worthy of emulation, and merit at last Thine approbation, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

DEATH OF SENATOR HEYBURN.

Mr. FRENCH. Mr. Speaker, I offer the following resolution and move its adoption.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 730.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

The question was taken, and the resolution was unanimously agreed to.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and on the last Calendar Wednesday when the House adjourned the situation was this: What is known as the Crago pension bill for widows and children of Spanish veterans, H. R. 17470, had been reported favorably from the committee, and the gentleman from Georgia [Mr. RODDENBERY] had made a motion to recommit it with instructions; and on the motion to recommit on a viva voce vote the motion to recommit was lost. Thereupon the gentleman from Georgia made the point of no quorum. There

was a call of the House, and, no quorum appearing, the House adjourned and left it in that condition. The first thing is to take a vote on the motion to recommit de novo. The Clerk will read the motion to recommit with instructions.

The Clerk read as follows:

Moved to recommit H. R. 17470, a bill to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection, to the Committee on Pensions, with instructions to said committee to report the same back with the following amendments:

Amend, on page 2, by adding in line 19 after the colon the following: "*Provided further*, That no widow or child as aforesaid shall be construed to have a pensionable status under this act unless it is affirmatively shown that the deceased husband or father—being an officer or enlisted man—was during the said War with Spain or the Philippine insurrection actually engaged in or present and exposed to danger in one or more battles or skirmishes."

Mr. CULLOP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CULLOP. I would like to ask if the motion to recommit was not lost and so declared by the Chair?

The SPEAKER. It was lost on the viva voce vote.

Mr. CULLOP. And that a roll call was demanded on the passage of the bill?

The SPEAKER. You can not recommit if anybody raises the point of no quorum present; that ends the whole business.

Mr. CULLOP. Had not that stage of the proceedings been passed and the point of no quorum made on the passage of the bill?

The SPEAKER. Oh, no; the motion to recommit was made properly at the right time.

Mr. CULLOP. The inquiry I was making was if that had not been voted down and the Chair had so declared, and the point of no quorum was not made on that proposition?

The SPEAKER. The gentleman from Indiana is mistaken about the facts. The question is on the motion to recommit with instructions.

The question was taken, and the Chair announced the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Speaker.

The House divided; and there were—ayes 3, noes 101.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 25, nays 252, answered "present" 3, not voting 110, as follows:

YEAS—25.

Beall, Tex.	Evans	Oldfield	Stephens, Miss.
Burleson	Faison	Roddenbery	Stephens, Tex.
Callaway	Garrett	Saunders	Townsend.
Candler	Harrison, Miss.	Sheppard	Tribble
Clark, Fla.	Hughes, Ga.	Sisson	
Dies	Jacoway	Slayden	
Doughton	Macon	Smith, Tex.	

NAYS—252.

Adair	Copley	French	Jones
Ainey	Covington	Fuller	Kahn
Akin, N. Y.	Cox, Ind.	Gallagher	Kendall
Alexander	Crago	Gardner, Mass.	Kennedy
Allen	Crumpacker	Gardner, N. J.	Kent
Anderson	Cullop	Garner	Kindred
Andrus	Curley	George	Kinkaid, Nebr.
Anthony	Curry	Gill	Kinkead, N. J.
Ashbrook	Dalzell	Gillett	Kitchin
Austin	Danforth	Godwin, N. C.	Konig
Barchfeld	Daugherty	Goeke	Konop
Barnhart	Davis, Minn.	Goldfogle	Korbly
Bartholdt	Davis, W. Va.	Good	Lafean
Bartlett	De Forest	Green, Iowa	Lafferty
Berger	Dent	Greene, Mass.	La Follette
Blackmon	Dickinson	Griest	Lamb
Boehne	Dixon, Ind.	Gudger	Langham
Booher	Dodds	Hamilton, Mich.	Langley
Borland	Donohoe	Hamlin	Lawrence
Bowman	Doremus	Hanna	Lee, Ga.
Brantley	Draper	Hardwick	Lee, Pa.
Browning	Driscoll, D. A.	Hardy	Lenroot
Buchanan	Dupré	Hart	Lever
Bulkley	Dyer	Hartman	Levy
Burgess	Edwards	Hawley	Lewis
Burke, Pa.	Ellerbe	Hayden	Lindbergh
Burke, S. Dak.	Esch	Heald	Linthicum
Burke, Wis.	Estopinal	Heflin	Littlepage
Butler	Farr	Helgesen	Lloyd
Byrnes, S. C.	Fergusson	Helm	Lobeck
Byrns, Tenn.	Ferris	Henry, Tex.	Longworth
Calder	Fields	Hinds	McCall
Campbell	Fitzgerald	Holland	McCoy
Cannon	Flood, Va.	Houston	McDermott
Cantrill	Floyd, Ark.	Howland	McGillicuddy
Carlin	Fordney	Hull	McKellar
Claypool	Fornes	Humphrey, Wash.	McKenzie
Clayton	Foss	Humphreys, Miss.	McKinney
Cline	Foster	James	McLaughlin
Conry	Fowler	Johnson, Ky.	McMorran
Cooper	Francis	Johnson, S. C.	Madden
Maguire, Nebr.	Patton, Pa.	Russell	Switzer
Maher	Payne	Sabath	Taggart
Matthews	Peters	Scott	Talbott, Md.
Mays	Pickett	Scully	Talcott, N. Y.
Merritt	Plumley	Shackleford	Taylor, Ala.
Mondell	Post	Sherley	Thistlewood
Moon, Tenn.	Powers	Sherwood	Tilson
Moore, Pa.	Pray	Sims	Towner
Moore, Tex.	Prince	Sloan	Tuttle
Morgan, La.	Prouty	Small	Underhill
Morgan, Okla.	Pujo	Smith, J. M. C.	Vare
Murdock	Raker	Smith, N. Y.	Volstead
Murray	Randell, Tex.	Sparkman	Watkins
Needham	Rauch	Speer	Webb
Neeley	Redfield	Stedman	Whitacre
Nelson	Reilly	Steenerson	White
Norris	Riordan	Stephens, Cal.	Wilder
Nye	Roberts, Mass.	Stephens, Nebr.	Willis
Olmsted	Rodenberg	Sterling	Wilson, Ill.
Padgett	Rothermel	Stone	Wood, N. J.
Page	Rouse	Sulzer	Young, Kans.
Palmer	Rucker, Colo.	Sweet	Young, Mich.

ANSWERED "PRESENT"—3.

Burnett	Carter	Mann

NOT VOTING—110.

Adamson	Gould	Littleton	Rucker, Mo.
Aiken, S. C.	Graham	Loud	Sells
Ames	Gray	McCreary	Sharp
Ansberry	Greene, Vt.	McGuire, Okla.	Simmons
Ayres	Gregg, Pa.	McHenry	Slemp
Bates	Gregg, Tex.	McKinley	Smith, Saml. W.
Bathrick	Guernsey	Martin, Colo.	Smith, Cal.
Bell, Ga.	Hamill	Martin, S. Dak.	Stack
Bradley	Hamilton, W. Va.	Miller	Stanley
Broussard	Hammond	Moon, Pa.	Stevens, Minn.
Brown	Harris	Morrison	Sulloway
Cary	Harrison, N. Y.	Morse, Wis.	Taylor, Colo.
Collier	Haugen	Moss, Ind.	Taylor, Ohio
Cox, Ohio	Hay	Mott	Thayer
Cravens	Hayes	O'Shaunessy	Thomas
Currier	Henry, Conn.	Parran	Turnbull
Davenport	Hensley	Patten, N. Y.	Underwood
Davidson	Higgins	Pepper	Vreeland
Denver	Hill	Porter	Warburton
Dickson, Miss.	Hobson	Pou	Wedemeyer
Difenderfer	Howard	Rainey	Weeks
Driscoll, M. E.	Howell	Ransdell, La.	Wilson, N. Y.
Dwight	Hughes, W. Va.	Rees	Wilson, Pa.
Fairchild	Jackson	Reyburn	Witherspoon
Finley	Knowland	Richardson	Woods, Iowa
Focht	Kopp	Roberts, Nev.	Young, Tex.
Glass	Legare	Robinson	
Goodwin, Ark.	Lindsay	Rubey	

The Clerk announced the following pairs:

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT.

Mr. FORNES with Mr. BRADLEY.

Until further notice:

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. ANSBERRY with Mr. BATES.

Mr. BATHRICK with Mr. MCCREARY.

Mr. FINLEY with Mr. CURRIER.

Mr. BELL of Georgia with Mr. MOTT.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. BROUSSARD with Mr. CARY.

Mr. COX of Ohio with Mr. DAVIDSON.

Mr. DAVENPORT with Mr. MICHAEL E. DRISCOLL.

Mr. DIFENDERFER with Mr. FOCHT.

Mr. GOODWIN of Arkansas with Mr. GREENE of Vermont.

Mr. GLASS with Mr. SLEMP.

Mr. GRAHAM with Mr. GUERNSEY.

Mr. GRAY with Mr. HAUGEN.

Mr. GREGG of Pennsylvania with Mr. HENRY of Connecticut.

Mr. GREGG of Texas with Mr. HILL.

Mr. HAMILL with Mr. HIGGINS.

Mr. HAMMOND with Mr. HOWELL.

Mr. HENSLEY with Mr. HARRIS.

Mr. HARRISON of New York with Mr. HUGHES of West Virginia.

Mr. HAY with Mr. KNOWLAND.

Mr. HOWARD with Mr. JACKSON.

Mr. LEGARE with Mr. LOUD.

Mr. MOSS of Indiana with Mr. MCGUIRE of Oklahoma.

Mr. O'SHAUNESSY with Mr. MARTIN of South Dakota.

Mr. PATTEN of New York with Mr. MILLER.

Mr. PEPPER with Mr. MOON of Pennsylvania.

Mr. POU with Mr. PORTER.

Mr. RAINEY with Mr. MCKINLEY.

Mr. RANSDELL of Louisiana with Mr. ROBERTS of Nevada.

Mr. ROBINSON with Mr. REYBURN.

Mr. RUBEY with Mr. SELLS.

Mr. RUCKER of Missouri with Mr. SIMMONS.

Mr. SHARP with Mr. SAMUEL W. SMITH.

Mr. STANLEY with Mr. SULLOWAY.

Mr. TAYLOR of Colorado with Mr. SMITH of California.

Mr. TURNBULL with Mr. VREELAND.

Mr. THOMAS with Mr. TAYLOR of Ohio.
Mr. WILSON of New York with Mr. WARBURTON.
Mr. YOUNG of Texas with Mr. WEEKS.
Mr. UNDERWOOD with Mr. MANN.
For the vote:
Mr. WITHERSPOON (for recommitting) with Mr. BROWN (against).
For the day:
Mr. MORRISON with Mr. WEDEMEYER.
Until December 6:
Mr. DENVER with Mr. HAYES.

The SPEAKER. On this vote the yeas are 25, the nays 252, a quorum. The Doorkeeper will open the doors. The motion to recommit is rejected, and the question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. CRAGO, a motion to reconsider the vote by which the bill was passed was laid on the table.

MEMBERS' ELEVATOR, HOUSE OF REPRESENTATIVES.

The SPEAKER. The Chair desires to make to the House a statement in which all the Members are interested. There has been much complaint about persons who are not Members of Congress coming up in the elevator in the southeast corner. Members complain that they can not get over here from the House Office Building in time to vote, and it is a very serious discommoding and might interrupt the public business. So last summer the Chair ordered the elevator men not to allow anybody except Members to come up in that elevator. They did not pay much attention to it, so the Chair issued an order to them this morning not to let anybody travel up and down in that elevator except Members of the House and the newspaper men, because the newspaper men have to come up that way or else go clear around the Hall of the House to the southwest corner.

That order can only be enforced by the Members of the House assisting the Speaker in enforcing it. It will not be properly enforced if they undertake to bully the elevator men to let other people in with them, for of course the elevator men are afraid of being discharged on complaint. The only way to enforce that order for the benefit of Members is for the Members to help the Speaker enforce it. For himself the Speaker will say that he will direct his family, when they come up, to come up in one of these other elevators [applause], and the Chair requests Members to do the same.

CALL OF COMMITTEES.

The SPEAKER. The Clerk will call the next committee.

The Clerk proceeded with the call of committees.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

Mr. WATKINS (when the Committee on the Revision of the Laws was reached). I am instructed, Mr. Speaker, by the Committee on the Revision of the Laws to ask consideration of the bill H. R. 16314, to amend section 162 of the act to codify and amend the laws relating to the judiciary, approved March 3, 1911.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911.

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended and reenacted so as to read as follows:

"SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding: *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

With a committee amendment.

Mr. MANN. Mr. Speaker, I make the point of order that this bill should be on the Union Calendar instead of on the House Calendar.

The SPEAKER. The gentleman will state why he thinks that.

Mr. MANN. The bill is an amendment to the judiciary title in reference to the jurisdiction of the Court of Claims, and among other things it provides that "the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court," which is an indirect appropriation of money out of the Treasury. Under the rules of the House the bill must be considered in the Committee of the Whole House on the state of the Union. I have no objection to the consideration of the bill to-day if it be considered in that way.

The SPEAKER. The Chair thinks that the point of the gentleman is well taken, and the bill will be transferred to the Union Calendar.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Louisiana asks unanimous consent to consider this bill in the House as in Committee of the Whole.

Mr. MANN. I would prefer to have the gentleman make a motion to go into Committee of the Whole.

The SPEAKER. The gentleman does not have to make a motion to go into Committee of the Whole.

Mr. MANN. That is true.

The SPEAKER. The House will resolve itself automatically into Committee of the Whole House on the state of the Union for the consideration of this bill, and Mr. RUCKER of Colorado will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16314, with Mr. RUCKER of Colorado in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16314. The Clerk will report the bill.

The bill was again read.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is recognized.

Mr. WATKINS. Mr. Chairman, I move the adoption of the committee amendment and the passage of the bill.

The CHAIRMAN. The motion of the gentleman from Louisiana is not in order, because general debate is allowable.

Mr. MANN. I understood the bill was read for amendment, and I supposed the gentleman from Louisiana would explain the purport of the bill.

Mr. SHERLEY. I would like to know, Mr. Chairman, what the request was. I could not hear it stated.

The CHAIRMAN. The request was for the passage of the bill.

Mr. SABATH. I would like to know something about the bill, Mr. Chairman.

Mr. WATKINS. Mr. Chairman, I did not anticipate that there would be any objection at all to the passage of the bill. It is simply an amendment to the revision code adopted on the 3d of March, 1911, and it was really an oversight in not having incorporated in section 162 the provision which is intended to be incorporated by the passage of this bill. It is simply intended to amend that section.

Mr. GOLDFOGLE. What section is it?

Mr. WATKINS. I will read the section. It is in the same words as the bill, except that it does not dispense with the necessity of alleging and proving loyalty in those cases which arose after the cessation of hostilities, after the Civil War was over.

But, Mr. Chairman, if there is to be debate upon this, we ought to have some agreement as to the length of time which is to be consumed and who is to control the time. The ranking minority member of this committee, the gentleman from Pennsylvania [Mr. MOON], would naturally control the time on that side, and I had expected him to do so. I expect to control the time on this side. As he does not seem to be in the Hall at this moment, I suppose the gentleman from Illinois [Mr. MANN] will control the time on that side.

Mr. MANN. I suggest to the gentleman that he explain fully the purport of the bill. If I understand it, the effect of it will be to take out of the Treasury of the United States $10,000,000 or $12,000,000 without any further appropriation by Congress. It is important enough to be considered fully.

Mr. WATKINS. If the gentleman will pardon the interruption, I simply want now to arrange as to the time to be consumed. I expect to explain the bill.

Mr. MANN. I think no more time will be occupied than is necessary for the consideration of the bill. I do not see how it is practicable to fix the time in advance.

Mr. WATKINS. Then, Mr. Chairman, I will proceed in the regular order. I should like to know, though, if anyone on that side is to control the time, so that I can know what disposition to make of the time on this side.

Mr. SHERLEY. I suggest to the gentleman that the ordinary rules of the House, which give to any gentleman taking the floor one hour for the discussion of the bill, be observed until the matter develops sufficiently to show how much discussion the bill will naturally evoke.

Mr. WATKINS. If we can not agree on the time, then that course will be taken.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is recognized.

Mr. WATKINS. Mr. Chairman, on March 3, 1911, the Committee on the Revision of the Laws secured the final passage of the bill for the codification of the laws relating to the judiciary. Section 162 of that codification, under the title of the judiciary, reads in this way:

SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitation to the contrary notwithstanding.

Mr. Chairman, when this section was incorporated in this revision it was not anticipated that any objection, technical or otherwise, would be raised to the payment of the proceeds of the property arising out of the act of Congress of 1863. It was not anticipated that the question of loyalty would be raised. For that reason that proposition was not submitted in the amendment to the section offered at that time and which finally became section 162.

The situation was just this: There was an old statute providing that in all cases arising before the Court of Claims allegation and proof of loyalty was necessary; but in the case of the United States against Klein the Supreme Court of the United States decided that under this captured and abandoned property act, passed in 1863 and amended later, no allegation or proof of loyalty was necessary, because the Supreme Court, in interpreting the act of 1863, has said that the fund so created is simply and purely a trust fund, that the property taken was taken for the benefit of those to whom it belonged, that it is not contraband of war, that it was taken solely for the purpose of converting the property and placing the proceeds in the Treasury of the United States for the benefit of the owner, and that being a trust fund it did not come under the requirements of the allegation and proof of loyalty as in the cases where the property taken was contraband of war. This property was not confiscated.

You will notice from the reading of the last section of this act that the statement made by the gentleman from Illinois [Mr. MANN] is untenable, because it requires that all the proceeds of that property shall be paid over to the owners of the property or their heirs, administrators, executors, or assigns. Therefore the property is to be paid over to the owners of it. But if there is not enough money to pay all, it is to be paid out ratably, or pro rata, to the different claimants.

The gentleman from Illinois has stated that some $10,000,000 or $12,000,000 of this fund will be paid. I have here a complete list of all these funds in the Treasury. The total amount was originally more than $26,000,000. There were paid out of it $16,000,000. The amount was further cut down by charges against the fund and under amendments to the original act until the fund now amounts to somewhere in the neighborhood of or a little less than $5,000,000 arising from the sale of the property after June 1, 1865. This $5,000,000 will never pay the claims already presented to the Treasury Department, and it is for the purpose of getting an equitable rate of distribution that we ask for this amendment. If the amendment is not incorporated in the code, the adventurers, camp followers, and speculators who came from various sections of the country after the Civil War into the South and bought up and took possession, either legally or without law, of this property will be the only ones who will benefit by the revision which was intended to benefit the heirs of the owners, the widows, and the orphans.

Mr. Chairman, the object of the House of Representatives in passing this act was to do simple justice to these parties who had taken from them property by the great Government of the United States; taken as a trust and put in charge of the agents of the Government as a trust fund, and the proceeds placed in the Treasury for the benefit of these persons. The proceeds of that property have never been allowed to be touched by any officer for any purpose. I do not think any appropriation is necessary for the purpose of carrying the law into execution. If it had been necessary, this amendment will not make it so. We do not here ask for any appropriation; we simply ask that the trust fund that is there now, and has been for 47 years, be paid out equitably and not turned over entirely to the horde of speculators and those who defrauded the people of their rights after the war; we ask that it be distributed to the rightful claimants and their heirs and representatives.

Now, Mr. Chairman, I had not thought that it would be necessary at all to discuss this question from a legal standpoint, but I have authorities here ready to make a legal argument if it becomes necessary. The reason I did not anticipate that there would be any controversy or objection to it was this——

Mr. TOWNSEND. Before the gentleman enters upon his legal argument I would like to ask for information. What is the total sum of this trust fund that he speaks of?

Mr. WATKINS. Approximately $5,000,000 in the Treasury which under the law would have to be paid out, and it is only a question of who it would have to be paid to.

Mr. TOWNSEND. Can the gentleman state the number of claimants?

Mr. WATKINS. I have the whole volume of them here; there are several thousand of them. I have not added them up. There are a great many from all over the country. There is hardly a section of the country but has a representative in these claims.

Mr. BUTLER. Will the gentleman yield?

Mr. WATKINS. Certainly.

Mr. BUTLER. How much was the fund originally?

Mr. WATKINS. About $26,000,000.

Mr. BUTLER. Will the gentleman be kind enough to tell us under what circumstances it arose?

Mr. WATKINS. In 1863 the Congress of the United States passed a law providing that all abandoned property in the insurrectory States—the States in the South in which the war was being waged—which had been captured should be taken in charge by the Federal authorities; that is, property not contraband of war, not subject to confiscation. It provided that the property which could not be confiscated as contraband of war should be taken in charge by the United States and put in a trust fund. People were moving from the South all over the southern section of the country and getting out of the way, leaving and abandoning property, particularly cotton. That act was intended to authorize the Federal authorities to take charge of it in a fiduciary capacity, selling the cotton or property and charging the cost of sale and transportation to the fund, and then to deposit the balance of the fund in the United States Treasury to remain there until it was claimed.

The original act limited the right to claim in two years, but that was afterwards extended, and now the expiration of that time has elapsed. There were a great number of people in that section of the country, particularly minors, who knew nothing of the passage of the law and did not avail themselves of an opportunity to take advantage of it. All of this fund has been distributed, except this remnant of about $5,000,000.

Mr. BUTLER. The act of 1863 was one of the confiscation acts?

Mr. WATKINS. It was not a confiscation act; it was a provision for the Government to take charge of the property, and in the case of the United States against Kline the court says that it was not a confiscation, but simply property taken in charge by the United States Government for the benefit of the owners of the property.

Mr. BUTLER. The fund that now remains in the Treasury arose from the sale of property that was seized after hostilities were over?

Mr. WATKINS. Entirely after the war was over.

Mr. BUTLER. And none of it is from the sale of property that was seized before hostilities ceased?

Mr. WATKINS. Not at all; and the very section, section 162, of the revision of the laws explains it definitely and explicitly. There can not be any doubt about it at all. It fixes the date absolutely, as the 1st of June, 1865—after the war was over.

Mr. Chairman, the reason that I made the statement that I could not anticipate any objection was because not only on account of the justice of this claim——

Mr. BUTLER. Mr. Chairman, if the gentleman will permit, of course this property was seized in the South?

Mr. WATKINS. Yes.

Mr. BUTLER. And the object of the gentleman's bill, as I understand it, is to remove the burden of proving loyalty?

Mr. WATKINS. Yes.

Mr. BUTLER. This property was seized after the war was over?

Mr. WATKINS. Yes. That is the whole thing in a nutshell. That is the reason, when this amendment came before the Committee on Revision of the Laws, that there was not a scintilla of objection to it. The ranking minority member on that committee, the gentleman from Pennsylvania [Mr. MOON], when the question was presented to him as to whether he would vote in favor of reporting the bill, said it would be not only bad faith but it would be wrong from every standpoint for any Member

to vote against the amendment. When the Democratic Members had gone before the conference committee, when this revision was in conference, they agreed with the conferees that if they would allow this measure to remain in the codification, they, the Democratic Members, would not object to other features about which they had contended in the passage of the bill.

Mr. BUTLER. Mr. Chairman, will the gentleman please tell us as a bit of history why this property was seized after hostilities had ceased?

Mr. WATKINS. Because the law provided for it.

Mr. BUTLER. Hostilities were done?

Mr. WATKINS. Yes.

Mr. BUTLER. I do not see the reason for it.

Mr. WATKINS. The law did not make any limit upon the time within which it should operate. The law went into effect as all other laws do and was general in its terms. No one knew when the law of 1863 was passed that the war would end in the spring of 1865. It made no limitation, except as to the time in which the owners should assert their claims. It simply ordered the Federal authorities to take possession of and to convert into money property that was abandoned by people in that section of the country, not placing any limit or stating any time. That continued. The gentleman will bear in mind that the people during the war for a number of years had been leaving that section of the country, and leaving behind them property, mainly cotton, though a great deal of land was left as well as other property.

Mr. BARTLETT. Mr. Chairman, will the gentleman from Louisiana yield for a moment?

Mr. WATKINS. Certainly.

Mr. BARTLETT. Mr. Chairman, if the gentleman will permit, I desire to suggest to the gentleman from Pennsylvania [Mr. BUTLER] that he will recall that from 1865 to 1866 the Southern States had located in them the forces of the United States Army. At that time we of the South were not under our own Government, but under the Government of the United States, either military or provisional. It was before we had obtained the status of civil government, and the United States Army officers, in pursuance of the act of 1863, deemed it to be their duty to seize all the cotton.

Mr. BUTLER. I have not been able to understand why it was seized. I do not see the justice of it.

Mr. BARTLETT. There was no justice in seizing it, and because there was no justice in seizing it this House, Republicans and Democrats alike, under an amendment that I myself offered to the revision-of-the-laws bill, voted to remove the statute of limitations from the abandoned and captured property act, to permit these people whose property had been unjustly seized and sold to have opportunity to recover their money which had been unjustly taken from them.

Mr. BUTLER. Congress has already determined that the question of loyalty shall not be considered in the distribution of this money, has it not; in 1911?

Mr. BARTLETT. There was nothing said about loyalty.

Mr. LANGLEY. Not as to this fund.

Mr. GARRETT. Mr. Chairman, will the gentleman from Louisiana yield?

Mr. WATKINS. Certainly.

Mr. GARRETT. Mr. Chairman, it has been my understanding—and I will ask the gentleman from Louisiana if it is not correct—that in many instances the cotton which was seized had become the property of the Confederate Government?

Mr. WATKINS. That is not involved in this question.

Mr. GARRETT. I know that it is not involved in this question, but it has something to do with the proposition as an explanation of why much privately owned cotton was seized. I say that for the information of the gentleman from Pennsylvania [Mr. BUTLER]. Much cotton, a great deal of cotton, had been acquired by the Confederate Government itself and in seizing the cotton that belonged to the Confederate Government very frequently they took cotton that belonged to private individuals as well. Of course the question as to whether it belonged to the Confederate Government or not does not belong to this amendment at all, but it is a matter of historical information.

Mr. BUTLER. The gentleman from Georgia made an explanation, but I can not see why the Government should seize cotton or any other commodity in the South after the war was over.

Mr. BARTLETT. There was no reason. It was an absolute injustice to those people which the Republican Congress undertook to correct after so many years.

Mr. WATKINS. Mr. Chairman, I have in this desultory way, interrupted by these questions, undertaken to explain the purpose of the bill, and I have about covered the main features of the case. As I desire to reserve the balance of my time, if there should be any objection to the bill, which I really can not conceive, I will now give the floor to any gentleman who desires to discuss the question, reserving the balance of my time.

Mr. WILLIS. It seems to me, Mr. Chairman, that this bill ought not to be agreed to by the committee or by the House without the most careful consideration. If I understand this bill correctly as I have read it and as I have listened to the explanation by the gentleman from Louisiana [Mr. WATKINS], it provides in substance, first, that the absolutely unbroken policy of the Government since the time of the Civil War should be abandoned. Second, that the decisions of the Supreme Court that have been made in every case of this kind shall practically be reversed by legislation. Third, that approximately $5,000,000 in the Treasury of the United States shall be paid out to some one. It seems to me, Mr. Chairman, we ought not to embark upon legislation of that kind without a most careful investigation and a most complete understanding of the facts. Now, as I understand the facts, substantially every dollar of this $5,000,000, which it is alleged is a trust fund, represents the proceeds of the sale of cotton that was captured—not taken from individuals, but captured—from the Confederate Government.

Mr. BARTLETT. May I interrupt the gentleman there?

Mr. WILLIS. Certainly; I yield to the gentleman from Georgia.

Mr. BARTLETT. I do not know where the gentleman gets his information or understanding, but it is very wide of the mark, because the evidence is, and I know it to be a fact, not only not captured but taken from the farms and warehouses where it was stored, and the records of the Treasury Department will show not only it was so taken but the names and marks of the owners from whom taken.

Mr. WILLIS. Mr. Chairman, I am quite familiar with the record to which the gentleman refers, and I want to say if he desires to have the authority for the statement I have just made it is a circular, No. 4, issued by the Treasury Department January 9, 1900, that gives a very complete analysis of this whole transaction and all of these claims, and the conclusions arrived at by the Secretary of the Treasury are stated in these words, which I shall read from the circular:

> It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds received from the sale of cotton that belonged to the Confederacy.

At all events the gentleman from Georgia happens to find himself in conflict with the authorities of the Treasury Department. That is the deliberate opinion of the men who have investigated the records and gone over these cases, that these $5,000,000 are not a trust fund at all, but they simply represent the proceeds from the sale of cotton that belonged to the Confederacy. Now, where these individuals come in is in another proposition. There is a series of bills here that seem to be all working together. Attention was first called to this in the eloquent remarks of the gentleman from the Tombigbee. He has a proposition which in substance undertakes to provide that when cotton was sold to the Confederacy in good faith, paid for absolutely, but left in the hands of the original vendor, that such transaction is not a sale, that the cotton is not the property of the Confederacy, but, because the property has not been delivered, the property rights reside in the original vendor, and consequently these parties are coming in and claiming individual ownership, notwithstanding the fact that they voluntarily sold the cotton to the Confederacy at the market price and received their pay for it.

Mr. CANDLER. Will the gentleman yield?

Mr. WILLIS. Yes.

Mr. CANDLER. Mr. Chairman, I do not think the gentleman from Ohio states accurately the proposition which I submitted to the House in a speech heretofore made.

The proposition involved there is this: That where the property was contracted for but never paid for at all, and left in the hands of the original vendor, that by reason of the fact it never had been paid for, he had the right when the vendee became insolvent to repossess that property and apply it to the payment of his debt, which is the old doctrine which has been well established and recognized not only by the English but American authorities, as to stoppage in transit. It never had been paid for, and, therefore, the original vendor had the right to take it and subject it to the payment of his debt.

Mr. WILLIS. I am glad to know I did not misunderstand my friend. I correctly understood him and am familiar with the contention in his bill, which I did not mean to discuss at this time. I referred to it only incidentally. However, when we come to that I wish to say that I shall disagree entirely with his proposition. The purchase by the Government of the

Confederacy in the open market and the payment for that stock of cotton either in notes of the Confederate Government or in bonds of the Confederate Government, I contend, is a sale, and that is the law of this land now as set forth in Whitfield *v.* United States (92 U. S., 165), and it is the proposition of the gentleman to change the law. That is where I shall take issue with him when the time comes.

But reverting to this question as raised, as to whether this is a trust fund, Mr. Chairman, I deny entirely the proposition that these $5,000,000 constitute a trust fund. It is not a trust fund under the decision of the Supreme Court of the United States. That brings me around to what I said in the first place, that it is the purpose of this bill, which appears to be so innocent on its surface, to reverse a well-established policy of the Government of the United States and practically by legislation to undertake to reverse at least two or three well-considered opinions of the Supreme Court. It seems to me that such procedure ought not to be had except upon the most careful investigation.

Now, let us go into this trust fund proposition a little bit. The gentleman says that this is a trust fund that really belongs to these individuals. I have already shown you that, based upon the most careful examination, the Treasury Department holds in this circular which I have read, that these $5,000,000 represent the proceeds of the sale of cotton that belonged to the Confederacy, and that, therefore, individuals have no right, claim, or title to it, and that there is no trust fund at all. But suppose that the cotton did not belong to the Confederate Government. Let us see what the court says about this trust fund. Reference is made here by the gentleman from Louisiana to the Klein case. Let us see what the court says in a later case about these matters. I am quoting here from the Haycraft case, 22 Wallace, page 92. The court said:

> The claim is that the trust in favor of the owner having then been created, the remedy for its enforcement in the Court of Claims as a contract was restored to the disloyal owner by the operation of the President's proclamation of December 25, 1868, granting unconditional pardon to all who participated in the rebellion.

According to the doctrine of Klein's case, as I understood my friend from Louisiana [Mr. WATKINS], it was upon that case that he based his argument. But here is what the court said about the Klein case in a later decision:

> According to the doctrine of Klein's case, if a suit was commenced within two years a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by the act.

Then the court summed it up in this striking sentence:

> Pardon and amnesty have no effect except to such as sue in time.

These parties have not sued in time. They have been guilty of laches. They have sinned away their day of grace. They had the opportunity under the act which allowed them to sue within two years of the time the war closed. They had their remedy under the act of 1872. Now it is proposed not only to change the doctrine that has been absolutely the unbroken policy, but, mark you, sir, it is proposed to amend the law so as to take away from the Government of the United States the defense as to requiring proof of loyalty by claimants which its own attorneys are making now in the cases pending in court.

Mr. GARRETT. Will the gentleman permit an interruption?

Mr. WILLIS. Certainly.

Mr. GARRETT. The gentleman speaks of changing the policy of the Government. Does the gentleman mean for us to infer from that he insists it was necessary heretofore to prove loyalty in these claims?

Mr. WILLIS. Not under the act of 1872.

Mr. GARRETT. Nor the first act, which was the act of 1865, was it not?

Mr. WILLIS. That has just been covered. Evidently the gentleman was not listening to what I read. It was not necessary, as the court said, as to those who sued in time, but as to those who did not sue in time it was necessary to prove loyalty.

Mr. GARRETT. They had no case if they did not sue in time.

Mr. WILLIS. Certainly.

Mr. GARRETT. Of course, even if they had proven loyalty they could not have recovered if they did not sue in time.

Mr. WILLIS. I understand that perfectly. The act of 1872 gave the parties their remedy. They did not need to prove loyalty under the act of 1872.

Mr. GARRETT. If they sued in time.

Mr. WILLIS. But under the new act, under section 162 of the judicial code, the officers of the Government contend that proof of loyalty is necessary. That is one of their defenses in cases actually pending, and if we enact this bill into law we are proposing to take away from the Government the defense that it now has.

Mr. GARRETT. I understand that, but I take issue with the gentleman on the proposition that this involves a change in the unbroken policy of the Government. All that this bill proposes to do is to suspend the action of a statute of limitations. It does not change any fundamental policy of the Government or differ in any respect from the decisions that have been had heretofore.

Mr. WILLIS. Not if that is all that is proposed.

Mr. GARRETT. It does that.

Mr. WILLIS. Then there would be no objection to striking out the proviso in lines 12, 13, and 14. This proviso reads as follows:

> *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

But would that action meet the approval of the friends of the bill? If that is all that is in this bill, if it is simply to remove the bar of the statute of limitations, the friends of the bill ought to agree to the amendment to strike out what follows the colon in line 12:

> *Provided*, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The point is right there. That is the crux of the bill—the removal of the charge of disloyalty; the defense that the Government is now making in the Court of Claims to protect this $5,000,000, which is not a trust fund, which is not the property of any individual, but which belongs to the United States.

Now I yield to the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. The gentleman's position is that this cotton, as I understand, had been assigned by the original owners to the Confederacy?

Mr. WILLIS. Had been sold and paid for.

Mr. BURKE of Pennsylvania. And paid for either in the form of cash, notes, or bonds; that the title had passed and that it was an executed contract?

Mr. WILLIS. Absolutely.

Mr. BURKE of Pennsylvania. Assuming that that is true, this bill, as I understand it, only gives the court jurisdiction to reimburse the owners of the property. Now, let us assume that the gentleman's contention is true. The owner of the property is the Confederacy.

Mr. WILLIS. If the gentleman will allow me just there, I think I can obviate any further difficulty. To fully understand this measure you must understand also two or three other measures that are pending here. This bill is to be followed by other measures which propose to provide that that was not a bona fide sale to the Confederacy and that the cotton belonged to the original vendors.

Mr. BURKE of Pennsylvania. Of course that is not obvious on the face of this measure. It would require an enabling act after the passage of this measure, would it not?

Mr. WILLIS. Surely it would.

Mr. GARRETT. Will the gentleman from Ohio yield further?

Mr. WILLIS. Certainly.

Mr. GARRETT. Let me ask the gentleman, as a matter of merit, his opinion on this proposition: This bill provides for the taking care of that property which was taken after June 1, 1865. At that time the War of Secession was ended, was it not?

Mr. WILLIS. Practically, but not legally.

Mr. MANN. It was not legally ended then.

Mr. GARRETT. I mean practically, not legally. Now, let me ask the gentleman from Ohio this question: Does he think that it was right for the Federal Government to take the property of private individuals after the war was ended, after there was peace, and not pay for it?

Mr. SIMS. Or require loyalty to be proven?

Mr. WILLIS. I would have one very definite idea if that property were the property of individuals, and an entirely different idea if it were, as I contend it actually was, and as the authorities of the Treasury Department hold that it was, the property of the Confederate Government. If this property was the property of the Confederate Government the mere fact that it remained in the possession of the original vendor as a bailee did not give him any title to the cotton whatsoever.

Mr. GARRETT. Of course I am familiar with the contention of the gentleman in that respect, and I do not care to go into that class of cases. I do not think it is true that all of this cotton belonged to the Confederate Government. I will say to the gentleman, however, that I have no personal interest in the matter. None of these transactions occurred in my State, or very few of them.

But the gentleman has insisted here, on this question of loyalty, that it is taking away a defense that the Government now has; and I simply wanted to get at the opinion of the gen-

tleman whether the defense of loyalty ought not to be taken away where the property was not taken until after the war was ended and in a time of peace. Why should loyalty have to be proven then? I understand the general rule among nations is that the property of an enemy is the legitimate prey of an army, but after June 1, 1865, there was no enemy.

Mr. WILLIS. Of course the gentleman understands that legally the war did not close until August, 1866.

Mr. GARRETT. I am talking about the practical fact of it. There is considerable dispute as to when the war really did end legally.

Mr. WILLIS. That has been settled by the Supreme Court of the United States, that it ended on August 20, 1866.

Mr. GARRETT. I should like the opinion of the gentleman on that question: If the property was not taken until after June 1, 1865, after there was a practical state of peace, does the gentleman think it is right to require proof of loyalty?

Mr. WILLIS. I have no hesitancy in answering that question. If the Government took property which during the war would have been regarded as the property of an enemy or as contraband of war—and cotton was so regarded—if that property was taken from an individual after the war was practically ended, then I should say there was just ground for recompense; but my contention is that that is not the case that we have before us, and that is the contention of the officers of the Treasury Department.

Mr. BYRNES of South Carolina. Would it not, then, be a matter of proof for the claimant to prove in the Court of Claims whether he did have title to the property at the time it was taken from him? Is not that a proper matter of proof in the court?

Mr. WILLIS. Undoubtedly so.

Mr. BYRNES of South Carolina. Then, if the gentleman has no objection, why not report this bill favorably?

Mr. WILLIS. In reply to that let me read a letter which I have. And before I forget it, I ask unanimous consent to insert in the RECORD certain correspondence that I have had with the Department of Justice and the Treasury Department relative to these several bills—my letters to the departments and their replies.

The CHAIRMAN. If there be no objection, it will be so ordered.

There was no objection.

Mr. BUTLER. Has the gentleman the opinion of the department?

Mr. WILLIS. I have it, and I will put it in the RECORD in full.

Mr. BUTLER. Let the gentleman give it.

Mr. WILLIS. I am going to, if the gentleman will give me time. Here is what the Attorney General says:

> In some of these cases under section 162 the Government has raised questions of law which have not as yet been determined by the courts. Among these is the contention—

Note that this is the contention of the Government in these cases involving this $5,000,000—

> Among these is the contention that the loyalty required under the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petition, which must be sustained by satisfactory proof.

Now, what I am saying is that when we have these cases actually pending in court, cases involving vast sums of money, approximately $5,000,000, it is unwise and undesirable, especially in view of other legislation that is contemplated here, to let somebody get into the Treasury and to take away from the Government a perfectly valid defense that it now has.

In further response to the inquiry of the gentleman from Pennsylvania [Mr. BUTLER], I desire to present here certain correspondence had with the Department of Justice:

WASHINGTON, *July 1, 1912.*

Hon. GEORGE WICKERSHAM,
Attorney General, Washington, D. C.

DEAR SIR: I desire to secure any information that may be in the possession of your department relative to the subject matter of House bill 23465, introduced by Mr. CANDLER, of Mississippi, now pending in the Judiciary Committee of the House, and House bill 16314, introduced by Mr. WATKINS, of Louisiana, and recently reported to the House from the Committee on the Revision of the Laws. These bills deal with the alleged liability of the Government of the United States to the original vendors of certain cotton, which cotton during the period of the Civil War was sold to the Government of the Confederate States and was permitted to remain in the care of the original vendors as bailees. Subsequently, under authority of United States statutes, the United States took possession of this cotton, holding that it was the property of the Government of the Confederate States. I is now proposed under these bills to make the Government of the United States liable for this cotton to the original vendors and their heirs. House bill 23465 proposes so to amend section 162 of the act to codify, revise, and amend the law relating to the judiciary, approved March 3, 1911, that, first, "that all judgments and payments under the act shall be free from claims of assignees in bankruptcy or insolvency of the original owner of said claims; second, that no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims; and, third, that judgment thereunder shall not be denied by reason of any bill of sale or other conveyance of such property to the Confederate Government in consideration of securities of said government unless accompanied or followed by actual delivery of such property.

I wish to know what the policy of the Government has been heretofore in dealing with cases of this kind and what the legal effect of the proposed legislation will be. Any information concerning the subject matter of either of these bills that may be in the possession of your department that can properly be furnished me will be appreciated.

Very respectfully,

FRANK B. WILLIS.

DEPARTMENT OF JUSTICE,
Washington, July 8, 1912.

Hon. FRANK B. WILLIS,
House of Representatives, Washington, D. C.

DEAR MR. WILLIS: I am in receipt of your favor of the 1st instant, wherein you desire information relative to so-called "cotton claims."

It is my understanding that the Treasury Department has forwarded to you certain facts and data which to a great degree make reply to the communication received by me.

The act of March 12, 1863, provided for the collection of abandoned property, etc., in insurrectionary districts within the United States and authorized the Secretary of the Treasury to appoint agents to receive and collect all abandoned or captured property in any State or Territory in insurrection, with certain exceptions. Said act contains the following provision:

"And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

Under this act numerous suits were filed in the Court of Claims for property, including cotton, seized both before and after June 30, 1866, and prior to August 20, 1866. The Supreme Court, in the case of Anderson (9 Wall., 56), held that the rebellion did not terminate until the proclamation of the President of August 20, 1866. In many cases the claimants failed to establish loyalty in compliance with the terms of the act. Some of these cases which were rejected on account of failure to establish loyalty were taken to the Supreme Court, and in the cases of Padelford *v.* The United States (9 Wall., 531), Klein *v.* The United States (13 Wall., 128), and other cases that court held that in all cases where the claimant had brought himself within the terms of the act by filing his claim within the two years prescribed by the statute, the special pardon of the President, or the general-amnesty proclamation operated to dispense with proof of loyalty, and judgment was thereafter rendered in favor of the claimants in that class of cases.

Many suits were filed in the Court of Claims after the expiration of the two years named in the abandoned and captured property act, by persons who made no effort to establish loyalty, but who sought to take advantage of the rule with respect to loyalty established by the Supreme Court in the above-named cases. These were all dismissed on motion of the Government for the reason that they were not filed within the jurisdictional period named in the act. Still other suits were brought under the general jurisdiction of the court, and under other acts, but both the Court of Claims and the Supreme Court denied jurisdiction in all that were not filed within the two years named in the abandoned and captured property act.

The status of such cases were fully discussed in the case of Haycraft (22 Wall., 92). In that case the court said:

"The claim is that the trust in favor of the owner having then been created, the remedy for its enforcement in the Court of Claims as a contract was restored to the disloyal owner by the operation of the President's proclamation of December 25, 1868, granting unconditional pardon to all who participated in the rebellion. * * *

"According to the doctrine of Klein's case, if a suit was commenced within two years a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by the act. * * *

"Pardon and amnesty have no effect, except to such as sue in time."

The same principle was affirmed in the case of James A. Briggs (25 C. Cls., 126; 143 U. S., 351).

In that case a special act of Congress (act of June 4, 1888, ch. 348, Stat. L., 1075) was under consideration.

In the last few years quite a large number of abandoned and captured cases have been referred to the Court of Claims for findings of fact under the act of March 3, 1887, known as the Tucker Act. In the case of Brandon, administrator of Colhoun (46 C. Cls., 559), the Court of Claims decided that it had no jurisdiction of such cases under Tucker Act references.

Section 162 of the revised Judiciary Code (act of Mar. 3, 1911) revived the abandoned and captured property act as to all cases where the property was taken subsequent to June 1, 1865. A large number of suits have been filed under this act, but none of them have been brought to trial.

In some of these cases under section 162, the Government has raised questions of law, which have not as yet been determined by the court. Among these is the contention that the loyalty requirement of the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petitions which must be sustained by satisfactory proof.

Sections 159, 160, and 161 of the new judicial code require allegation and proof of loyalty in all cases, and we shall ask the court to construe these sections in connection with said section 162.

I herewith attach to this communication a circular dated January 9, 1900, issued by the Secretary of the Treasury, and known as Department Circular No. 4. It appears from this document that the cotton, the proceeds of which amounted to nearly $5,000,000, was seized after June 30, 1865.

By section 5 of the act of May 18, 1872 (17 Stats., 134), it was provided:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the lawful owners, or their legal representatives, of all cotton seized after the 30th day of June, 1865, by the agents

of the Government unlawfully and in violation of their instructions, the net proceeds, without interest, of the sales of said cotton actually paid into the Treasury of the United States," etc.

It will be observed that this act did not require proof of loyalty. One thousand three hundred and thirty-six claims were filed under the last-named act for 136,000 bales, estimated at the value of $13,000,600 (Ex. Doc., H. R., 45th Cong., 2d sess., p. 36), and there was allowed by the Secretary of the Treasury $195,896.21 on account of these claims. Most of the claims were rejected on the ground that the cotton had been sold to the Confederate Government by the original owners, as shown by bills of sale. In the case of Whitfield *v.* The United States (92 U. S., 165), the Supreme Court held that such bills of sale passed title and no recovery could be had by the original owners for cotton so disposed of.

The object and legal effect of the bills referred to by you are to amend section 162 so as to dispense with proof of loyalty, to nullify the bills of sale to the Confederate Government, and to make judgments in this class of cases free from the claims of assignees in bankruptcy or insolvency.

The policy of enacting such legislation is a matter entirely for the consideration of Congress.

The reports from the Treasury Department in the cases that have been filed since the 1st of January under said section 162 of the new judicial code mostly show that the cotton had been sold to the Confederate Government and bills of sale given by the original owners. The reports in another class of cases show that cotton had been bought by the Confederate Government and resold or contracted for to individuals who now make claims to the proceeds thereof.

In view of the fact that section 162 of the new judicial code did not go into effect until the 1st of last January, and, furthermore, that the various questions which the Government have raised under this act have not been passed upon by the court, and, in addition to this, the fact that in no instance have the claimants' attorneys who are now seeking to recover under this section presented a case in which they are ready for trial, it would seem that before further legislation time should be given for adjudication of some cases under the recent law.

Respectfully, for the Attorney General,

JOHN Q. THOMPSON,
Assistant Attorney General.

Mr. SIMS. Will the gentleman yield for a question?

Mr. WILLIS. Yes.

Mr. SIMS. Suppose the Government had taken property from an individual in July, 1866, cotton that was planted and raised after the war. Does the gentleman think that the question of loyalty as a matter of substance should affect the ownership of that cotton, although it may have been raised by an ex-Confederate soldier after he was paroled and had gone home?

Mr. WILLIS. The fact that he was a Confederate soldier would not make any difference.

Mr. SIMS. He was just as disloyal as a man could be during the war. Now, this act confines it to June 1, 1865, a time when in fact there was no war. After that time why should there be any difference between June, 1865, and June, 1866, because the war ended legally on August 20, 1866?

Mr. WILLIS. Can the gentleman tell me any good reason why, when there have been given three several opportunities whereby relief could be had in just such cases, there should be another? First, application to the Secretary of the Treasury; second, under the proclamation the law allowed two years after the legal close of the war—that is, up to August 20, 1868—and third, there was the law of 1872. Here were three separate remedies given to the parties, and now why should we, 50 years after that, break down the statute of limitations, break down the rules that heretofore have obtained in these cases?

Mr. SIMS. The gentleman's inquiry relates wholly to the removal of the statute of limitations, but my question was as to loyalty.

Mr. WILLIS. But the gentleman from South Carolina raised the question as to the statute of limitations.

Mr. SIMS. I can not see why there should be any question of loyalty raised after 1866, unless the owner was a belligerent and still fighting and refusing to accept the issues of war.

Mr. WILLIS. Now, Mr. Chairman, I wanted to see——

Mr. BYRNES of South Carolina. I would like to answer the question that the gentleman from Ohio has just asked.

Mr. WILLIS. I hope the gentleman from South Carolina will do that in his own time, as I would like to close. I do not desire to seem discourteous, but I want to proceed. I want to go on with this first proposition, that this is not a trust fund. The Supreme Court has clearly and distinctly so stated in what I have quoted and in what I shall insert in the RECORD.

Now let me read from another case the decision of the Court of Claims in the Brandon case, decided in 1897. The court is quoting from Ford's case (19 C. Cls., 519–525):

But as was said by the court in Ford's case respecting the right even of a loyal man in insurrectionary territory "he had no shadow of lawful claim against the Government before the act of March 12, 1863, was passed; nor had he after that, except as that act gave it to him." So that in any event, whatever right such claimant had to the proceeds arising from the sale of his cotton was given to him by the abandoned and captured property act, the determination of which was contingent upon his pursuing the remedy and establishing his loyalty and ownership within the time and as in the act provided. This was the extent of the trust. (Young *v.* U. S., 97 U. S., 39, 61.)

Then it goes on to say—

As to all persons within the privileges of the act—

Not as to all persons, but as to those who sued in time.

As to all persons within the privileges of the act the proceeds were held in trust, but in all others the title of the United States as captor was absolute. Whoever could bring himself within the terms of the trust might sue the United States and recover, but no one else.

In other words, the Supreme Court has said, as clearly as the English language will permit it to state, that this fund under discussion to-day is not a trust fund at all; that the title of the Government of the United States to this fund is absolute. What I am giving to you here is not any conclusion of my own, but the conclusion of the court itself.

The same doctrine is borne out in the Sprott case, which I will not take the time to read, but simply refer you to it. It is in Twentieth Wallace, pages 460 to 462; and, Mr. Chairman, I ask permission to insert that in the RECORD.

The CHAIRMAN. If there is no objection, the request will be granted.

There was no objection.

Mr. WILLIS. The decision referred to is, in part, as follows:

The act known as the captured and abandoned property act, passed March 12, 1863 (12 Stat. L., 820), providing for "the collection of abandoned property, etc., in the insurrectionary districts within the United States," enacts that any person claiming to have been the owner of any such abandoned or captured property may, within a time specified in the act, prefer his claim to the proceeds thereof in the Court of Claims, and, on proof to the satisfaction of the court (1) of his ownership, (2) of his right to the proceeds thereof, and (3) that he has never given any aid or comfort to the rebellion, receive the residue of such proceeds, after deducting any purchase money which may have been paid, etc.

* * * * * * *

It is a fact so well known as to need no finding of the court to establish it, a fact which, like many other historical events, all courts take notice of, that cotton was the principal support of the rebellion, so far as pecuniary aid was necessary to its support. The Confederate Government early adopted the policy of collecting large quantities of cotton under its control, either by exchanging its bonds for the cotton, or, when that failed, by forced contributions. So long as the imperfect blockade of the southern ports and the unguarded condition of the Mexican frontier enabled them to export this cotton, they were well supplied in return with arms, ammunition, medicine, and the necessaries of life not grown within their lines, as well as with that other great sinew of war, gold. If the rebel government could freely have exchanged the cotton of which it was enabled to possess itself for the munitions of war or for gold, it seems very doubtful if it could have been suppressed. So when the rigor of the blockade prevented successful export of this cotton, their next resource was to sell it among their own people or to such persons claiming outwardly to be loyal to the United States as would buy of them for the money necessary to support the tottering fabric of rebellion which they called a government.

The cotton which is the subject of this controversy was of this class. It had been in the possession and under the control of the Confederate Government, with claim of title. It was captured during the last days of the existence of that government by our forces and sold by the officers appointed for that purpose, and the money deposited in the Treasury.

The claimant now asserts a right to this money on the ground that he was the owner of the cotton when it was so captured. This claim of right or ownership he must prove in the Court of Claims. He attempts to do so by showing that he purchased it of the Confederate Government and paid them for it in money. In doing this he gave aid and assistance to the rebellion in the most efficient manner he possibly could. He could not have aided that cause more acceptably if he had entered its service and become a blockade runner or, under the guise of a privateer, had preyed upon the unoffending commerce of his country. * * *

The substance of the decision is that in the first part it gives a statement of the facts as to how this thing came about, that the Confederate Government was the purchaser of cotton. You understand it purchased the cotton; it did not confiscate it. It did not go to the planter and say, "You have got to turn this over," but it went out in the open market and bought the cotton as any other buyer might, and it paid for it. It was the practice to leave the cotton in the hands of the vendor; that was not peculiar as to the Confederate Government. It was the custom of the country, as the court says in one of the decisions. That is the way it was generally done. The sale was complete, but the cotton was left in the hands of the vendor as a bailee, but the title passed entirely and completely to the Confederate Government.

The court goes on to say in substance, in the latter part of the decision, that if it shall be permitted to be held that this cotton that was actually sold in good faith, paid for in Confederate currency, notes, or bonds, which was the only money in circulation in that portion of the country at that time—if, after the Confederacy had fallen, the people who happened to have that cotton in possession should be allowed to say that the cotton was theirs, the court says that would be giving the individual an unfair advantage and allowing him a chance to profit on a contract which by all the decisions of the court was held illegal and unwarranted. That is the substance of the decision in Twentieth Wallace, at the pages to which I have referred.

There has been a good deal written about this matter. I have seen some newspaper and magazine articles, and have

heard some discussion relative to the amount of this fund. I expected to hear it stated that it was much larger than it is. I am glad to know that the gentleman from Louisiana [Mr. WATKINS] has stated it with substantial accuracy. I have read at various times that this fund which was awaiting distribution—this so-called trust fund that was held in the interest of the common people of our great Southern States—amounted to twenty-five or twenty-six millions of dollars. I shall insert in the RECORD some brief tables from this Treasury circular that are highly interesting and important in this discussion, which show the sources of this fund and how the fund has gradually been paid up until now, as has been stated by the gentleman from Louisiana [Mr. WATKINS], the sum total remaining for distribution is $4,992,349.92. The tables referred to are as follows:

Amount received and covered into the Treasury		$26,887,584.39
Deduct items found above—		
Profits on cotton purchased	$3,444,715.14	
Premium on gold	2,571,090.25	
Miscellaneous property	1,309,650.69	
Rents	613,284.96	
Sale of captured vessels, etc	1,438,526.39	
Amount paid in since May 11, 1868	1,629,652.77	
		11,006,920.20
Leaving receipts from sale of individual cotton		15,880,664.19
Amount covered into the Treasury derived from sale of individual cotton		15,880,664.19
From this amount deduct payments judgment Court of Claims under act Mar. 12, 1863, to Feb. 4, 1888	$9,864,300.75	
Judgments of court since Feb. 4, 1888, and private acts of Congress	520,700.18	
Disbursed as expenses under section 3, joint resolution, Mar. 30, 1868, and subsequent acts	242,140.34	
Judgments against Treasury agents under act of July 27, 1868	65,276.79	
Claims allowed by the Secretary under section 5, act of May 18, 1872	195,896.21	
		10,888,314.27
		4,992,349.92

The Secretary of the Treasury, after giving the argument that I have given, substantially, goes on to say:

It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds of the sale of cotton that belonged to the Confederacy.

A little further along he says:

It will be seen from the foregoing that ample provision was made by law for all persons who claimed that their property was unlawfully taken.

1. Until the fund was covered into the Treasury in 1868, the Secretary of the Treasury could return the property or the proceeds in all cases where a claim was substantiated by proper evidence.

2. The Court of Claims had jurisdiction for all claims filed before August 20, 1868.

3. The act of 1872 provided that claims for cotton could be filed with the Secretary of the Treasury until November, 1872.

I commend that circular to the study of Members, if they have not already seen it. It is Treasury Circular No. 4, issued in the year 1900.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. Yes.

Mr. BUTLER. That I may understand better, I desire to ask the gentleman a question. The gentleman is anticipating that there may be a measure pressed here authorizing individuals to collect money from the Treasury of the United States for cotton which was sold to the Confederate Government. I will agree with the gentleman that such a sale, except as to creditors, there being no delivery made, is good; but will not the gentleman concede that it is only right to pay an individual for property that was seized from him and sold after the hostilities between the North and the South had ceased?

Mr. WILLIS. Mr. Chairman, I am not anticipating a bill that will be urged. I am anticipating a bill that is now on the calendar and that has been urged, and which, in my judgment, is to be passed as a companion piece to this bill, if this bill passes. But I am not talking about that. We are talking about this bill, and the contention I seek to make is that, as a matter of fact, after years of the most careful investigation of records that are extremely voluminous—and if gentlemen have not examined these records they ought to do so and must do so before they can come to a proper conclusion—the Treasury Department officials, after most laborious research in a carload of musty documents, came to the conclusion that the funds they now have are the proceeds of the sale of cotton that belonged to the Confederacy. In other words, shorn of its verbiage, my contention is that this fund does not belong to any individuals at all.

Mr. BUTLER. Then this bill would not enable the owners of the cotton to make any claim if it belongs to the Confederacy. There is no such thing as the Confederacy at the present time, and no claim can be set up by it. Is not that the result?

Mr. WILLIS. Precisely the result, as I have stated.

Mr. GARRETT. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. Certainly.

Mr. GARRETT. The question propounded by the gentleman from Pennsylvania [Mr. BUTLER] was really the question that I was about to propound. As a matter of fact, under the terms of this bill there can not be any payment if it belonged to the Confederate Government. The gentleman is not insisting upon that, is he?

Mr. WILLIS. Certainly not. I have been unfortunate in the use of terms if I have not made it clear that I am trying to discuss this general cotton proposition as evidenced by this bill and other related measures.

Mr. GARRETT. But I feared that some gentleman who might be friendly to this bill might get an erroneous impression from the fact that the gentleman is arguing another bill.

Mr. WILLIS. I am talking about this bill and about another bill of a good deal of importance that is pending here. As a matter of fact, if the statement which I believe the gentleman from Tennessee [Mr. GARRETT] made about the bill awhile ago be true, that it simply removes the bar of the statute of limitations, then we can strike out this provision as to the requirement of proof of loyalty. We can strike out lines 12, 13, and 14, and then there will be no objection to it. I do not think anybody would object to the bill then, but the gentleman from Tennessee will not be able to get the friends of this bill to agree to that. It is not the limitation proposition, but it is the loyalty proposition that is of importance.

Mr. GARRETT. Mr. Chairman, I will say to the gentleman that I would not be willing myself to agree to that, because I do not believe where the property was taken after the war was ended that there ought to be any proof of loyalty.

Mr. BUTLER. How could there be any disloyalty after the war was over?

Mr. WILLIS. Mr. Chairman, I now yield to the other gentleman from Tennessee [Mr. MCKELLAR].

Mr. MCKELLAR. Mr. Chairman, as I understand the gentleman, he concedes that there is about $4,000,000 left, arising from the sale of this cotton. Is that correct?

Mr. WILLIS. About $4,000,000.

Mr. MCKELLAR. Then this bill simply provides the individuals who owned the cotton subsequent to June 1, 1865, shall have the right to come forward to the Court of Claims and put forth their claim to it?

Mr. WILLIS. Without proof of loyalty.

Mr. MCKELLAR. Without proof of loyalty. The war was then over, and if these men had the ownership and can prove the ownership to the property and the proceeds of that property are still in the Treasury, as the gentleman admits, why should the United States Government not permit the real owners of the property to come forward and make proof to their ownership and right?

Mr. WILLIS. If the gentleman asks me for my humble opinion——

Mr. MCKELLAR. I do.

Mr. WILLIS. My contention is that the real owner of that cotton is no longer in existence. That is, I mean to say, the vendee of the cotton—the Confederate Government—was the owner of the cotton, and, of course, with the close of the war, the Confederacy passed out of existence. Therefore the Supreme Court said (Young *v.* United States, 97 U. S., 39, 61) in the case which I read in the gentleman's presence, the title is absolutely in the United States. That is my contention, if the gentleman is interested in my very humble view of the matter.

Mr. SIMS. If the gentleman will permit, this bill does not provide for paying the Confederate Government anything or any assignee of the Confederate Government.

Mr. WILLIS. If I see a snake is crawling along through a rail fence, I will whack at it then whether it be passing at this, that, or the other corner. I do not mean, of course, any offense by the illustration.

Mr. SIMS. Some people imagine they see snakes. [Laughter.]

Mr. WILLIS. I accept the pleasantry of the gentleman; "Out of the fullness of the heart the mouth speaketh," and I have no doubt the gentleman, from his wide experience, refers to the matter in that way. What I am getting at is this: I am referring to this general proposition. I think this is only one of a series of bills which it is proposed to pass in order somehow to enable somebody to get $5,000,000 out of the Treasury that belongs properly to the United States. But let me proceed a little further with this specific bill. I have tried to

state the facts involved in this case and in similar cases. In the second place, what is the law and what has been the history of the law? We first had the act of March 12, 1863, to which reference has been made, the captured and abandoned property act. Then that was followed up by the act of May 8, 1872, under which proof of loyalty was not required. As I said a little bit ago, out of order in my argument, there have been three separate and distinct remedies that have been afforded to these people. If there are any individuals who actually own this cotton, the law has already provided three separate and distinct periods and three separate means whereby they could get relief. Mr. Secretary Sherman, Secretary of the Treasury, in his annual message of 1877–78, in discussing these very cases spoke of the operation of the act of 1872, under which $194,000 was paid. Under the operation of that act 1,189 claims were rejected and 49 claims were allowed. Then he goes on to say here, in substance:

That it is desirable there should be somewhere, some time, somehow an end to this period of litigation. We have already had three separate and distinct remedies and three distinct periods in which these aggrieved persons could have been relieved.

And yet gentlemen come in here more than a generation after and say we must open this thing all up again and take away the defense by the Government which has been heretofore allowed.

Mr. McKELLAR. I want to ask the gentleman this question: The gentleman speaks of this cotton being actually the property of the Confederacy. Under this bill does not the gentleman concede that the claimant has to make proof of ownership to the satisfaction of the Court of Claims before he can sustain his claim against the Federal Government?

Mr. WILLIS. Certainly.

Mr. McKELLAR. Then why should not he have that right?

Mr. WILLIS. I have tried to make it clear. This bill may not amount to so much, but I conceive the whole proposition here is involved in the various measures that are reported out in order to allow certain persons to get hold of this $5,000,000 that does not belong to anybody except the United States, and they will not be allowed to get it if I can help it.

Mr. BURKE of Pennsylvania. Will the gentleman yield for just one question?

Mr. WILLIS. Certainly.

Mr. BURKE of Pennsylvania. I would like more definitely to see the issue joined here. What are these bills? Will the gentleman name one of them or give some indication by which the Members can ascertain what bill is proposed to be tacked onto this legislation in the event of this enactment?

Mr. WILLIS. I think it would be hardly profitable to go into that discussion.

Mr. BURKE of Pennsylvania. It is a contingency which may arise.

Mr. WILLIS. I can give the gentleman the number of some of the bills that I can commend to him for his careful consideration. There is the present bill, H. R. 16314, and H. R. 16820, and a bill, the number of which I have just now forgotten, but which was elaborately and eloquently discussed by the gentleman from Mississippi [Mr. CANDLER], the able Representative from the Tombigbee district.

Mr. BURKE of Pennsylvania. House bill 16820 was evidently introduced subsequent to this bill?

Mr. WILLIS. I am not alleging any conspiracy or anything of that kind. I am not going into that.

Mr. BURKE of Pennsylvania. Has the bill H. R. 16820 been reported to the House?

Mr. WILLIS. I am not clear about that. My recollection is that it has been reported, however.

Mr. MANN. It is on the calendar.

Mr. WILLIS. I think it is on the calendar.

Mr. BURKE of Pennsylvania. That confirms the gentleman's argument.

Mr. WILLIS. If the House passes this bill that bill will be called up. It is apparently a perfect system. To one is assigned the cry of "Onset" and another the "Charge." The object is to get away with the $5,000,000. That is what we are opposing.

Now, in this Brandon case, to which I have referred, and which I commend to the gentlemen for careful consideration, the court gives this splendid summary on page 8:

Of the proceeds remaining in the Treasury amounting to $4,886,671 from cotton seized after June 30, 1865, the Secretary of the Treasury allowed, under the act of May 18, 1872, section 5 (17 Stat. L., 122, 134), $195,896.21, leaving $4,690,774.79, which the Secretary refused to return because the owners, he held, had sold the cotton to the Confederate Government, and the same was not, therefore, individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

Now, this whole proposition has been gone into by preceding Congresses. Reference is made here by the court to Senate Document No. 23, Forty-third Congress, second session, and to House executive document, Forty-fifth Congress. They quote that as authority. Let me read that again. It is as follows:

And the same was not therefore individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

You have not only the opinion of the Executive Department, that of the Secretary of the Treasury, the present Secretary of the Treasury, as well as past Secretaries of the Treasury. I have here the report of Mr. Secretary Sherman in 1877 and 1878. The Executive Department has decided time and again against the proposition involved in this bill. The legislative department has gone on record in the same way, and I have already quoted to you at great length the decisions of the Supreme Court of the United States, which it is proposed shall be overturned by this apparently harmless little bill. I do not believe the committee or the House or the country want to enter upon a scheme of legislation the ultimate result of which will be the payment of $5,000,000, which is the property of the United States, to somebody, the good Lord only knows who it will be.

Now, there are two or three other cases. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. Fifteen minutes.

Mr. WILLIS. There are two or three other cases I shall refer to only in passing. I have already referred to the Haycraft case and read a portion of it. Another is the Sprott case, which I referred to very briefly. The only difference between that case and the other case is that in this case the Confederate Government had sold the cotton to an individual. The Supreme Court held in a later case that it made no difference as to the nature of the transaction whether the Confederate Government bought the cotton of an individual or sold it to an individual, and that the nature of the transaction, so far as its legality was concerned, was exactly the same.

I do not believe, Mr. Chairman, that the House under the guise of passing a seemingly innocent sort of a bill to carry into effect what is alleged to be the existing intention of the law, desires to enter upon a policy which in reality, as I have said before, proposes, first, to fly in the face of the facts; second, to reverse the legislative department of the Government that has already made careful investigation of this subject and has expressed its opinion in positive law no later than the time of the passage of the judicial code.

I have read to you a portion of the letter from the Attorney General, all of which letter I shall insert in the RECORD by permission of the committee. In that letter it is said that the Department of Justice insists as one of the defenses in the case now pending in court that loyalty must be proved. That is one of the defenses. In the face, then, not only of legislative decisions, but also in the face of the contention of the appropriate executive department that under the law, as the Congress passed it only just recently, it still is the rule of law that loyalty must be proved; in view of the fact that the Attorney General's Department, whenever it has gone into this matter, has taken a position exactly opposed to this proposed legislation; in view of the fact that every time the matter has been before the Supreme Court of the United States that tribunal has taken the contrary view to that proposed by this legislation; in view of the fact that in the passage of this apparently innocent and harmless measure it is proposed to change the policy of the Government and actually to interfere with the trial of cases now pending in the Court of Claims; in view of the fact that this legislation proposes to lead into one of two ways—either that it proposes to lead nobody knows whither or else to the Treasury of the United States, and proposes to give away to somebody $5,000,000, which, according to the decision of the Supreme Court in the Young case, absolutely belongs to the Federal Government—I say, in view of the magnitude of the sum and the importance of the principle involved, this bill ought not to pass. [Applause.]

I desire to add here a communication recently received from the Secretary of the Treasury in response to an inquiry addressed to him by me relative to H. R. 16314 and H. R. 23465:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 9, 1912.

Hon. FRANK B. WILLIS,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your communication of the 1st instant, requesting such information as may be in the possession of this department relative to the subject matter of H. R. 23465 and H. R. 16314, pending in the present Congress.

The bills have a direct bearing upon the so-called cotton claims, which, by section 162 of the judicial code, approved March 3, 1911 (36 Stat., 1139), were referred to the Court of Claims for adjudication, jurisdiction being conferred to hear and determine the claims of persons from whom property was taken subsequent to June 1, 1865, under the provisions of the captured and abandoned property act of March 12, 1863 (12 Stat., 820), and acts amendatory thereof.

In reply I have to advise you that the enactment of the proposed legislation would effect the following changes in respect to the hearing and determination of the claims:

1. Requiring the filing of all such claims prior to January 1, 1915, no limit of time being prescribed by existing law.

2. Eliminating proof of loyalty as a jurisdictional fact in the adjudication of such claims.

3. Declaring that judgment shall not be denied a claimant because of any bill of sale or other conveyance of such property to the Confederate States Government, unless accompanied or followed by actual delivery of such property.

4. Restricting payments under judgments in such cases to the personal representatives of the original claimants.

It is proposed to limit the time for filing such claims to January 1, 1915, thus giving claimants three years' time in which to file their claims, the period running from January 1, 1912, when the judicial code became effective.

This period is one year longer than was allowed for filing claims under the captured and abandoned property act of March 12, 1863, and while the matter is entirely in the discretion of the Congress it is suggested that delay in the adjudication of the cases may be caused if the court shall find that moneys derived from sales of intermingled cotton coming from a particular locality can not be traced to individual lots, and if it can not be shown that all claimants upon the fund are before the court, judgments may be suspended to await the expiration of the time for filing claims in order that all persons whose cotton contributed to the fund may receive their pro rata share of the proceeds thereof.

In the matter of the bills of sale for cotton sold to the Confederate States it is disclosed by the Confederate records that the sales were voluntary and that the Confederate Government purchased in competition with private parties, paying approximately the same price per pound for the cotton and making payment in the same kind of money or securities.

The seller of cotton to the Confederate States received as consideration for his property identically the same consideration as though he had sold to a private buyer, and the records show instances wherein the same person at or about the same time sold some of his cotton to the Confederate States and the remainder to private purchasers.

The sales to the Confederate Government were made by two classes of persons, namely, producers selling direct to the Confederate States and merchants or factors selling to the Confederate States cotton which had been purchased at private sale.

The bills of sale given by the seller for either a sale to a private dealer or to the Confederate States were substantially in the same terms and similarly conditioned. In either case the cotton was to remain in store on the plantation of the seller until called for. Actual possession of the cotton was not necessary. It was the custom of the country in making sales of cotton to transfer the planter's certificate as if negotiable, and this was the usual and generally the only mode of delivery required.

Many of the agents of the Confederate States making purchases of cotton for the Confederate Government were also buying cotton in the same localities on private account. Charles Baskerville, a Confederate cotton agent, was of this number, and subsequently, through the firm of Baskerville & Whitfield, of which he was a member, sold upward of 2,000 bales of cotton to the Confederate States, which he purchased at private sale from Mississippi planters. Baskerville paid for cotton purchased by him at private sale in the same kind of funds that he used in paying for the cotton bought for the Confederate Government.

The cotton so purchased at private sale and subsequently sold by Baskerville & Whitfield to the Confederate Government remained on the plantations of the planters, and was there when collected by the United States Treasury agents as property of the Confederate States surrendered to the United States.

The legal representative of the surviving partner of Baskerville & Whitfield has filed claims for this cotton in the Court of Claims, under section 162 of the judicial code, and similar claims for the same cotton have been filed by the legal representatives of the planters from whom Baskerville & Whitfield purchased it at private sale.

Many dealers other than Baskerville & Whitfield purchased from the planters at private sale and subsequently sold the same cotton to the Confederate States, and their claims have been filed with the court, the same cotton being also claimed in court by the legal representatives of the planters who produced it.

Of the 30,000 bales of cotton collected in the four Mississippi counties of Lowndes, Monroe, Noxubee, and Oktibbeha, approximately one-fifth was sold to the Confederate States by cotton merchants or other persons who purchased it from the planters at private sale.

Under the terms of the proposed amendment of section 162 of the Judicial Code (H. R. 23465), nullifying bills of sale of cotton sold to the Confederate States, it would appear that judgment would be given to the legal representative of the surviving partner of Baskerville and Whitfield and not to the legal representatives of the planters who retained possession of the cotton, though the bills of sale from the planters to Baskerville and Whitfield rest upon the same consideration as the bills of sale from Baskerville and Whitfield to the Confederate States.

The Confederate records further show that the cotton so purchased was regularly inspected by Confederate States cotton agents and its condition reported upon, of which record was made from time to time. Such records show sales of cotton to procure funds for supplies for the Confederate army as well as the removal of cotton to prevent its capture by the Federal military forces.

In some instances the Union and Confederate military commanders of a district authorized sales of Confederate States cotton to persons holding purchasing permits issued under section 8 of the act of July 2, 1864 (13 Stat., 377), but the cotton was not removed from the plantations until after the surrender of the Confederate military forces.

Claims arising under such purchasing permits were paid from the Treasury out of the proceeds of the cotton taken and sold. Claimants for this cotton are also before the Court of Claims under section 162 of the Judicial Code, and if the bills of sale to the Confederate States are nullified by the enactment into law of H. R. 23465, a question may arise whether the judgment to be given shall be for the whole sum which reached the Treasury or only for the balance remaining.

The changes in section 162 of the Judicial Code proposed by H. R. 16314 and H. R. 23465 are apparently matters of public policy to be determined by Congress in the exercise of its discretion.

In this connection attention is called to H. R. 16820, "A bill to revive the right of action under the captured and abandoned property acts, and for other purposes," favorably reported from the Committee on War Claims.

This bill contemplates the filing in the Court of Claims of all claims not previously filed and the reinstatement on the docket of the court of all cases dismissed for the causes stated in the bill.

Under the original jurisdiction conferred upon the Court of Claims by the captured and abandoned property acts 1,578 claims cases were filed in that court, the aggregate amount claimed being $77,785,962.10, as stated in Court of Claims Report, volume 18, page 703.

There is inclosed for your information a copy of Treasury Department Circular No. 4 of January 9, 1900, containing a statement of transactions under the captured and abandoned property acts, showing the gross receipts, sources from which derived, payments therefrom, and the balance remaining in the Treasury of approximately $5,000,000.

Should H. R. 23465 become a law it is probable that the whole of that sum would be required to be paid in carrying out its provisions.

It is understood that the Attorney General has lately communicated with you in reply to a similar inquiry upon this subject.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

Mr. SISSON. Mr. Chairman, I shall not attempt to answer all of the speech of the gentleman [Mr. WILLIS] who has just taken his seat, because a great deal that he has said is not applicable to this bill at all. A great deal of misconception could be obtained, however, from listening to that speech, because one would imagine from hearing it that all the money in the Treasury is involved in this bill. That is not the case at all. My recollection is that this bill will carry, if passed, not over from $900,000 to $1,000,000.

Now, the entire amount of cotton, the net proceeds of the sale of which were paid into the Treasury, aggregated, according to my recollection, something like $10,000,000. A great deal of this cotton, under the acts referred to by the gentleman as having been enacted in past years, was recovered by citizens of the South who could prove loyalty to the Federal Government. My recollection is that something like $5,000,000 was paid out on that account between the close of the Civil War and the present time as the result of suits filed by people who were able to prove loyalty to the Federal Government. All of the proceeds of this other cotton, except that which is specifically covered by this bill, can not possibly be reached under this legislation.

I think it necessary that the Members of the House should thoroughly understand the situation. I am sure that there is not a Member of this House on either side who does not desire the Federal Government to be just and fair to its citizens. I agree with the position taken by any Member of this House who is unwilling that the cotton that has been properly taken from the Confederate Government should be paid for, because that cotton became absolutely the property of the Federal Government. That question is not involved in this bill, nor is the question of the payment of $3,000,000, as I recollect, of the proceeds of that cotton which belonged properly to the Confederate Government. This bill will carry only, as I recollect, something like a million dollars.

Now, if you will go down to the Treasury Department you will find that the names of the parties to whom this cotton belonged are on the books of the Treasury Department, and if those people who could prove loyalty got their money because they could prove loyalty their claims are identical with the claims of those people who have the money in the Treasury but who are unable to prove loyalty.

When the Committee on the Revision of the Laws proceeded to act upon the report of the commission codifying the law in the last Congress it took under consideration this section 162. That committee was presided over by the distinguished attorney from Philadelphia, Mr. MOON, who was also on the joint commission from the House and the Senate to revise the statute laws of the United States, as were also the gentleman from Kentucky [Mr. SHERLEY] and the gentleman from Tennessee [Mr. HOUSTON]. If you will turn to section 159 of the code, you will find that the right of recovery is there given, and from that section was removed the statute of limitations which ran against these claims for cotton the proceeds of which were actually turned into the Treasury, that cotton having been taken from a private citizen who had never parted with his title to it to the Confederate Government. In addition to removing the statute of limitations there was a clause in that section in reference to loyalty. Section 159 gives the citizen the right of recovery. But there was another section which the committee entirely overlooked. The gentleman from Tennessee [Mr. HOUSTON] will bear testimony to this fact. The other members of the committee and the members of the Senate committee who were interested in it thought that they had removed not only the statute of limitations as to these claims, but they thought that they had removed the requirement of loyalty as to these specific claims for cotton; but when the clerks made up the

code, or, rather, assembled the sections, it was discovered that in section 161, which has solely to do with procedure and with the right of a man to go into court, it was provided that the claimant must in his petition to the Court of Claims allege his loyalty in order to get into court to assert the right which is given him in section 159. If this fact had been discovered while the bill was under consideration, it would have been remedied.

Mr. BURKE of Pennsylvania. As I understand the gentleman's contention, it is that there is at the utmost $1,000,000 involved in this legislation.

Mr. SISSON. I am stating that as my recolletcion from a report which I saw which included the names of the parties who could recover if this law should be enacted.

Mr. BURKE of Pennsylvania. That conclusion is predicated upon some action either of the court or of the Treasury officials.

Mr. SISSON. Well——

Mr. BURKE of Pennsylvania. Did that action turn upon the proof of loyalty alone?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Then there is an official record showing that there is $1,000,000 which would be paid to these claimants if it were not for the fact that they were compelled, as the gentleman says unnecessarily and unjustly, to prove their loyalty.

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. And that is the purpose sought to be accomplished by this bill.

Mr. SISSON. That is the sole purpose of this bill.

Mr. BURKE of Pennsylvania. Is the gentleman familiar with the so-called Byrnes bill (H. R. 16820), subsequently reported from the Committee on War Claims?

Mr. SISSON. I am not familiar with that, nor do I know how much money will be covered by that bill. If I recollect it aright, I think that covers a period broader than the one covered in this bill.

Mr. SIMS. Yes; it does; to that extent.

Mr. SISSON. It does to that extent.

Mr. BURKE of Pennsylvania. That to my mind is a very important question to be decided by the gentlemen who are advocating the passage of this bill, and I would like to vote in the light of the fact that the statement is made by the gentleman from Ohio [Mr. WILLIS] that this bill in itself may be innocent enough, but coupled with subsequent legislation reported from the Committee on War Claims it would be a vicious enactment.

Mr. SISSON. Well——

Mr. BURKE of Pennsylvania. Is it the intention to follow this bill with the bill subsequently reported from the Committee on War Claims, and, if so, in what way does that bill (H. R. 16820) enlarge upon the provisions of the bill now under discussion?

Mr. SISSON. I will state to the gentleman from Pennsylvania that I am not in any sense of the word sponsor for the Byrnes bill, nor am I the sponsor for any other bill in reference to these matters, because I take this position, that where cotton was sold by a citizen—as it was sold by members of my own family—and Confederate money was paid for it, or receipts which were made money by the Confederate Government were issued for that cotton, if after the Civil War was over they turned over to the Federal Government the cotton which they had produced during the Civil War, for which they had taken either Confederate money or receipts of the kind which I have described, I do not believe they have a right now to come and ask the Federal Government to repay them for property which went into the Confederate treasury for the purpose of enabling them to win the cause for which they were fighting. I take that broad ground.

Mr. BURKE of Pennsylvania. Is there any litigation in any court which would in itself be evidence of the fact that this title is really in dispute as to the $1,000,000 spoken of?

Mr. SISSON. I do not believe there could be a question about that. Now, the gentleman from Pennsylvania does not live in a cotton country. Cotton is put up in what they call bales. A bale of cotton has its gin number, and each bale of cotton has the initials of the party upon the cotton. Now, before a man could recover he would be compelled under this bill to prove his specific ownership to that specific bale of cotton, the proceeds of which went into the Treasury. He will be compelled to prove that before he would have any status in the Court of Claims.

It might be contended that a man might go into the court and swear falsely that he did not sell the cotton to the Federal Government, and the records of the Treasury Department might show that the proceeds of that particular cotton were taken, and the records would show that he sold it to the Government. My judgment is that in that sort of a case the record in the Treasury Department would be conclusive against him, for I do not believe he would be permitted to deny what the record showed as to that cotton.

Mr. BURKE of Pennsylvania. Has that question as to the title been adjudicated; that is, whether it belongs to the individual or the Confederacy? The gentleman from Ohio [Mr. WILLIS] claims that it belongs to the Confederacy.

Mr. SISSON. I do not think the gentleman from Ohio contended that any cotton under this bill, the title of which was in the Confederate Government, could be obtained.

Mr. BURKE of Pennsylvania. Then I misunderstood him. I agree with the gentleman from Mississippi in his contention from a legal standpoint and take issue with the gentleman from Ohio if that is the fact. What I want to ask the gentleman is whether or not this title to a million dollars' worth of cotton has been adjudicated by anybody.

Mr. SISSON. It has not.

Mr. BURKE of Pennsylvania. I mean as to whether it belongs to the Confederate Government or to the individual.

Mr. SISSON. It has not by any court that I know of.

Mr. BURKE of Pennsylvania. The assumption or statement of the gentleman is that the only question at issue is the question of the party's loyalty.

Mr. SISSON. That is all.

Mr. BURKE of Pennsylvania. But there must be another question, and that is the question of title.

Mr. SISSON. And his right to go into court is barred by the question of loyalty. Now, the gentleman from Ohio argued a moment ago that these parties having these claims had been given three separate opportunities to assert their claims. This is hardly fair, because these claims intended to be covered by this bill have never been given a chance. The thing that has kept all who were loyal to the Confederate Government, even though a widow who had no relative in the Army, from recovering is the test of loyalty, and if she was even in sympathy with the Confederate Government this test would compel her to commit perjury or she had no standing in court, and never has had under any of the acts referred to by the gentleman from Ohio. Now, to answer the question of the gentleman from Pennsylvania as to the proof as to who was entitled to this cotton in controversy in this bill it would only be necessary to go down to the Treasury Department and find, for example, that certain cotton was taken from T. U. SISSON, of such number and weight, and the net proceeds turned into the Treasury. If the cotton was turned into the Treasury by the officer who took it as cotton, which did not show on it marks that it had been sold to the Confederate Government and had no receipt of any kind attached to it, I could go into the Court of Claims if I had been living at that time and recover, if this bill passes.

Mr. BURKE of Pennsylvania. The manner of confiscation is a matter of record.

Mr. SISSON. Absolutely.

Mr. BURKE of Pennsylvania. Has that record been officially interpreted by any Treasury authority?

Mr. SISSON. I will say frankly that it never has as far as I know, because we have never been able to get up to the point on account of the bar of loyalty which has kept us away from the courts that could adjudicate the question.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.

Mr. WILLIS. I am interested in the gentleman's generous and fair statement that if he was a citizen of Mississippi and had sold his cotton to the Confederate Government, and it had gone into the general property of the Confederate Government, and had been used in the war, that he would not contend that he as a citizen would have any claim against the Federal Government.

Mr. SISSON. I do not think I would.

Mr. WILLIS. I think that statement is fair. But what I want to ask of the gentleman, who is an exceptionally good lawyer, is, Would it, in his judgment, have made any difference if the Confederate Government had bought that cotton absolutely, a bill of sale had been made out, and the price had been paid to him by the Confederate Government in the currency that was the only kind in circulation in that portion of the country at that time, the cotton having been left in the gentleman's possession as bailee, would he then say that he had any claim against the Federal Government?

Mr. SISSON. I do not think I would have.

Mr. WILLIS. Then the gentleman disagrees with his colleague.

Mr. SISSON. I understand that, and I dislike very much to do so, but I am not governed by any desire of mine as to what

I would like to have the law to be if I should happen to have a claim in court, in stating my opinion of what the law is. I think that prior to the time the cotton got out of his reach, prior to the time the cotton got away from him, he then could have gone into court and subjected the cotton to his claim, if he had never received anything of value for it; but since he failed to do that I do not believe that under the law of the case, so far as my little learning of the law goes, he would have any legal status in any court in England or in America.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.

Mr. SIMS. The burden of proof would be wholly upon the person asserting the claim to show his title to it.

Mr. SISSON. Yes.

Mr. SIMS. And if the Confederate Government took it in any way, or had purchased it, or the claimant had parted with his title, how could he have any standing under this bill?

Mr. SISSON. Mr. Chairman, I take it that these gentlemen here are lawyers, and I shall not be like Judge Becket when once before the Supreme Court of the State of Mississippi. On one occasion he argued at considerable length some perfectly elementary principles of law. Among them was one which he stated in about this way: "The court will understand that the burden of proof is upon the plaintiff; that that is the general rule in law." He continued to thus discuss elementary principles of law in that way. Finally the chief justice, Judge Woods, became impatient and said: "Judge Becket, why do you not get down to the facts and the law in your case and cease discussing elementary principles of law? Why not presume that the court knows a little law?" Judge Becket then, with a little laugh, said: "Ah, your honor, I did that in the lower court and lost my case." [Laughter.] I shall presume, I will say to my distinguished friend from Tennessee, that the Members of the House understand that elementary principle of law.

Mr. SIMS. From the conclusions they draw from this bill, I did not know.

Mr. SISSON. As I understand the argument of the gentleman from Ohio [Mr. WILLIS], it is not so much to this bill that he directs it as to the legislation that he fears might follow in the wake of it. This matter was thrashed out very thoroughly by the subcommittee, of which Judge MOON was the chairman, and then was reported back to the Committee on the Revision of the Laws. These statutes, as Judge MOON stated, were scattered through about 17 large volumes, and to get them together and place them side by side, making it a harmonious whole, was a herculean task, and no men but patient lawyers like Judge MOON and Judge HOUSTON and Judge SHERLEY and all of the other judges who were on that committee would have gone through with the task as well as they did.

It was the love of the law that impelled them to hunt it up. In this particular instance they failed to amend this section, which goes entirely to the proceeding, to the affidavit which is required to be made. That learned committee gave to the claimant the right, by removing the statute of limitations and by removing the clause in reference to loyalty, section 159, to recover. Prior to that time, even after he got into court, he would have to establish his loyalty, but there was another section that had to do wholly with the question of procedure. The affidavit—the proof of loyalty of the claimant was a jurisdictional question—had to affirmatively show upon its face before he could get into court that he was loyal, and the court then could require him to establish to its satisfaction, in addition to this, his loyalty.

I presume that there is not a man from any section of the country who does not want the United States Government to pay all just, legitimate, and fair demands of the citizens against the Government. I believe I have made some little record here in Congress, if for nothing else, upon the question of conserving as far as I can the Treasury of the United States. I have not voted for bills which I thought were extravagant. Sometimes I have been rather held up and forced to do it, but there never has been and never will be a case where the Federal Government owes a citizen an honest debt, an honest obligation, that I would not be willing to pay the last dollar in the Treasury to settle it. In addition to that, before I would have the Government's paper dishonored I would mortgage posterity. I would take care of the honor, the honesty, and integrity of the Federal Government at all hazards, so that when the citizen has the obligation of his Government in the form of a Treasury note, a gold certificate, or any other piece of paper he may rest assured that the paper is good. In this particular case it is contended that the citizens of the South were disloyal to the Federal Government in the assertion of what they believed to be their rights, but the time has now come in the history of this great Republic when this next year in the great State of Pennsylvania we are to have a reunion of these two sections, and damned be he who would say one word that would cause the Union not to be complete, not to be perfect. [Applause.]

In this particular class of cases the citizen had been permitted to lay down his arms and go back home, and much of this cotton was absolutely gathered during the fall of 1865 and some of this cotton was absolutely produced in 1866; and even then, when the officer of the Federal Government went there for the purpose of collecting the property of the Federal Government, they would frequently get the property of a citizen who would make an affidavit before the proper officer of the Army, who stated to him "If you can prove that this cotton is yours and does not belong to the Confederate Government, you will get your money; and rather than resist an Army officer when he had no right to go into court and in the prostrate condition they were in then they permitted their cotton to be taken, and a great deal of this cotton never found its way into the Treasury; but there were many honest Army officers there who would take the affidavit and the proof of the citizen, and when the proceeds of the cotton was received after it was sold in New Orleans, or Yazoo City, or some other cotton market, after taking the expenses of handling, hauling, and selling it, these honest Army officers would turn into the Treasury this money as the property of the citizen; and no proof to the contrary has even been shown; but when they came to court for the purpose of establishing these claims they were met at the door of the temple of justice with this clause in each of these bills saying to the citizen, "You have no standing in court because you have been disloyal." The only thing I ask this House to do is to remove that one clause in reference to these claims where the cotton honestly belonged to the citizen who produced it and never parted with his title to the Confederate Government. It is his of right.

Why, the English people in the Boer War never required that sort of affidavit of the citizen with a claim against the English Government. Our own Government did not require it of the Mexican in the Mexican War. No civilized government demands that when its citizen's property has been taken. When the private property of the citizen has been taken all civilized governments of the world have paid the citizen for his property. I am not asking you to pay one penny to the South for Confederate cotton; I am not asking one penny for the cotton that was sold to the Confederate Government; I am not asking that this Government should respond to these sort of claims, but I am asking in common justice that those people who produced and gathered this cotton and who can establish to the satisfaction of the court that this cotton was never sold, directly or indirectly, to the Confederate Government, even at this late date be permitted to make their claim. It is never too late for either a man or for a nation to do justice to a people, and I love a government as well as a man who at a late date will pay his honest obligations although he might have the right to plead the statute of limitation.

Mr. BUTLER. Will the gentleman yield?

Mr. SISSON. Yes.

Mr. BUTLER. There is a provision in this bill to which the gentleman from Ohio [Mr. WILLIS] referred, the object of which is to avoid the question of loyalty to the United States Government.

Mr. SISSON. That is the only thing that is amended, too.

Mr. BUTLER. Now, the question of whether or not the claimant was loyal from June 1, 1865, is not, of course, involved in this measure. Was he loyal after June, 1865, up to the time the war was declared to be ended in August, 1866?

Mr. SISSON. Now, let me say to the gentleman, he raises a question about which the courts are very much at a difference. There are several decisions of the courts, and I have had opportunity to investigate these matters; but as a matter of fact Mr. Lincoln in the proposition which was made to the Southern States gave to the world the condition that when the Confederate States abolished slavery by law and assumed their former relations with the Union, that then the war would be over. That happened in June, 1865, after Mr. Lincoln had been assassinated.

Now, so far as certain acts on the part of the Federal Government are concerned in reference to the disbanding of its Army, in reference to getting all of these people back into peaceful pursuits, there were many questions which arose which made it necessary for the Federal Government and made it necessary for the Congress to say that these armies were still organized and that the military government was still in existence. As a fact, to convince any man that both Houses of Congress felt that the war was indeed over in 1865, in December, 1864, Mr. Lincoln proposed in a message to the Congress that in order that the southern people might understand the

terms upon which this bloody war should cease it would be necessary for them to abolish slavery by law and to make his emancipation proclamation the law of the land and resume their peaceful relations to the Union.

What happened? The thirteenth amendment, which abolishes slavery, passed the House of Representatives in February, 1865, and the following December of that year every State in the Union had ratified that amendment, and the Congress which met put it in the Constitution of the United States, and every Southern State ratified it as well, and both Houses received that ratification which they had submitted to the Southern States. So I presume that that unquestionably, so far as this body is concerned, settled that controversy as to when the war absolutely ended.

Mr. BUTLER. Mr. Chairman, there seems to be a question in the minds of perhaps some of us as to whether or not there was an act of hostility on the part of any of these claimants toward the Government after June, 1865—whether there could have been on the part of any claimants toward the Government subsequent to June, 1865.

Mr. SISSON. One man could not be disloyal.

Mr. BUTLER. Yes, he could. He might raise a good deal of trouble, although he might not bear arms.

Mr. SISSON. You know that there has been one thing the world has been proud of, and the people of the South have been proud of, and the people of America can be proud of, and it is the example set to all the world, that where a great people differed on a great question and they appealed to the supreme court of all courts, that great court of nations, the court of might and war, when one side had lost in that great contest the miracle before the world was that the Confederate soldier went back in his tattered gray jacket to his destroyed country, beat his sword into a plowshare and went to rebuilding his home—a peaceable, good, quiet, loyal citizen. None of them were disloyal who were good Confederate soldiers. Those who were disloyal were not good Confederate soldiers.

Mr. BUTLER. Gen. Grant gave him back his horses so that he might go to work——

Mr. SISSON. I know that the gentleman, from my past knowledge of him, has that good honest heart in him that permits him to say those good things.

Mr. BUTLER. I do not think the cotton of a citizen who was loyal to the Government ought to have been confiscated after 1860.

Mr. SISSON. As a matter of fact, a great many of the people who were loyal to the Government had lost their cotton in identically the same way and have since recovered it. This act leaves the law just exactly as it is here, except we add this one proviso. You removed in your last Congress, when Judge MOON was presiding over the bill, the statute of limitation to permit him to come in to prove his case. You removed the question of loyalty from a section of the old act, and it is now in this act, section 159, I think.

Mr. BUTLER. I think I made the motion to remove it.

Mr. SISSON. Perhaps the gentleman did. I do not know.

Mr. MANN. No; the gentleman did not. The gentleman from Georgia [Mr. BARTLETT] made it.

Mr. SISSON. Now, the only thing that this does is to make section 161 correspond with section 159.

Mr. BURKE of Pennsylvania. The gentleman states that this question of loyalty is still a mooted question as to the period subsequent to June 1, 1865.

Mr. SISSON. I do not think so, as far as any matter of this kind is concerned. It was not, so far as every Confederate soldier was concerned in reference to voting on those constitutional amendments and sending members of the legislature in reference to the adoption of the thirteenth amendment to the Federal Constitution. But the gentleman must be aware, when a great struggle like that has ended, there are a great many things that have to be done through the military arm of the Government before the civil arm can take complete control. Now, to that extent the military law prevailed in certain portions of the South, but just as soon as they could remove that they did so. But, so far as the legal status of the citizen was concerned, it ended June 1, 1865.

Mr. BURKE of Pennsylvania. Eighteen hundred and sixty-five, as to his loyalty or disloyalty?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Then, the gentleman's contention is that subsequent to June 1, 1865, a citizen was loyal to the Government?

Mr. SISSON. To the Government.

Mr. BURKE of Pennsylvania. If that is true, what is to prevent his making the allegation and proof essential to the establishment of his claim?

Mr. SIMS. That is where the trouble comes in. They require him to prove his loyalty during the war.

Mr. BUTLER. We can amend it so as to eliminate that.

Mr. BURKE of Pennsylvania. That feature can be remedied.

Mr. SISSON. I will ask the gentleman from Pennsylvania [Mr. BURKE] if he has ever seen an affidavit in one of these cases?

Mr. BURKE of Pennsylvania. No.

Mr. SISSON. Is the gentleman a member of the Masonic fraternity? It is almost as searching as the oath they exact of a Mason.

Mr. BURKE of Pennsylvania. The affidavit in this case would be in strict accordance with the act, necessarily, and that affidavit would go no further than the declaration of loyalty during this period.

Mr. SISSON. I will say to the gentleman from Pennsylvania, that so far as I am concerned, I believe that the purpose and intention of this act would enable the citizen to go into court now and make the proof. He ought to be permitted to go into court and make the proof. There has been no decision yet, so far as the Court of Claims is concerned, as to whether or not it is necessary even now under these acts to prove loyalty, but this removes all doubt about it.

Mr. BURKE of Pennsylvania. But, that being the case, there being no decision of the Court of Claims or any other authoritative body on the subject, what is the necessity of this legislation?

Mr. SISSON. If you do not enact it, we do not get into court.

Mr. BURKE of Pennsylvania. But there is nothing of record in the way of opinion or decision that does declare that.

Mr. SISSON. Oh, that is the trouble. You would have to prove that you had been loyal to the Federal Government at all times during the entire struggle.

Mr. BURKE of Pennsylvania. I will be guided entirely by the argument in this case. I know that the gentleman from Mississippi is making a very able argument, and that he can enlighten me and other members of the committee on the subject. There has been no adjudication of the question of the citizen's loyalty subsequent to June 1, 1865?

Mr. SISSON. Oh, yes; there have been a number of them.

Mr. BURKE of Pennsylvania. By the Court of Claims?

Mr. SISSON. Yes; by the Court of Claims. But let us get down now to the facts of this case. There has been no adjudication since the amendment of section 159 of the present civil code.

Mr. BURKE of Pennsylvania. The gentleman says that under section 159 of the present civil code there has been no decision and there has been no determination of the necessity of new legislation?

Mr. SISSON. No. I will read a part of section 184. I will not read all the section, but I will read as to the question of loyalty:

> In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the late Civil War the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact.

Now, that is what I have been endeavoring to state throughout this whole argument—that, so far as the petition was concerned, it was necessary that the petition alleged loyalty before the court should get jurisdiction to try the petitioner's right to the property.

Mr. SIMS. Throughout the Civil War?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Would not this be entirely inadequate, then, if that is the provision—this applying only to the period subsequent to June 1, 1865?

Mr. SISSON. If it is presumed that the war did not end, and if the court should hold as a finality that it did not end until June, 1866. Then this cotton could not be recovered for at all unless it was taken after June, 1866. But with the amendment proposed in this bill the question of loyalty would not bar the citizen from recovering his property. The date at which the war, according to all the acts of Congress, ended, however, is June, 1865.

Mr. BURKE of Pennsylvania. Would this meet the gentleman's approval: "*Provided*, That no allegation or proof of loyalty subsequent to June 1, 1865, shall be necessary"? Would that suit the gentleman?

Mr. SISSON. I am not the proponent of the bill.

Mr. BURKE of Pennsylvania. But the gentleman is one of the ablest advocates of the bill.

Mr. SISSON. I am an advocate of the bill, but, so far as I am individually concerned, I can see no serious objection to that.

Now, there is this point in the case, however, which might do some parties an injustice: We will presume that in the spring of 1865 some of the cotton was taken from a citizen who had not sold it to the Government, and the proceeds were actually turned into the Treasury. The gentleman would not contend that that citizen would not have the right to recover his own property. He ought to have the right to take that which was his own. All the civilized governments take that view in reference to the ownership of private property. Now, as I recollect, the captured and abandoned property act was passed in 1863.

Mr. SIMS. Yes.

Mr. SISSON. Therefore it could not be until along in 1864, wherever the Federal Army was in possession of the means of transportation, that this cotton could be taken. I think, as a matter of fact, practically all of this cotton was taken after January 1, 1865, and by far the greater part of it was taken after June, 1865. I am not absolutely sure, however, but that it might do injustice to a few individuals not to permit them to recover prior to June, 1865.

Mr. BURKE of Pennsylvania. The gentleman will admit that in determining this proposition the question of loyalty ought to be divided into two periods, namely, the period prior to June 1, 1865, and the period subsequent to that. That would be a fair assumption, would it not? When you come to open the doors of the Treasury to a citizen whose claim is based upon his loyalty to that Government, it is fair to assume that he ought to have been loyal at the time the confiscation took place. Is not that true?

Mr. SIMS. Then it ought to apply to all claims.

Mr. BURKE of Pennsylvania. I am catechizing the gentleman from Mississippi [Mr. SISSON], who is eminently able to take care of himself.

Mr. SISSON. So far as my own individual opinion of private property is concerned, I do not believe that one government in making war upon another government would have the right, solely because the citizens of one country feel kindly and feel loyal toward the government of that country, to take their private property. At the time the committee reported the legislation which they hoped would reach this case their idea was that they would begin with June, 1865.

Mr. BURKE of Pennsylvania. Would the gentleman assert that it would be reasonable to take money from the Treasury of the United States to pay for the destruction of property prior to June 1, 1865?

Mr. SISSON. No, sir. I do not believe that a government ought ever or can ever be called upon to pay for the destruction of property, which destruction is an incident to war. In other words, if it becomes necessary for the Government to destroy a house, or to destroy corn or meat or supplies, or property of any kind, although the supplies may belong to a private citizen, I do not believe any government would pay for those supplies whose destruction was necessary, unless at the time of their destruction the officer in charge agreed with the owner, "We will pay you for the property." In some instances that was done in the Southern States.

Mr. BURKE of Pennsylvania. Yes; because of the presumed disloyalty of the individual——

Mr. SISSON. I do not think that ought to cut any figure at all.

Mr. BURKE of Pennsylvania. That is what I want to get at. Does the loyalty or disloyalty of the claimant in this case cut any figure at all as to his right of recovery?

Mr. SISSON. I think it does. I am going to be just as frank as I know how to be, as I try to be with everybody. I do not believe the Federal Government, the Confederate Government, the English Government, the German Government, or any Government should ever profit by the sale of private property which it takes from the citizen during a struggle. I do not believe that ought to be done.

Mr. BURKE of Pennsylvania. No; you say it should not profit by the sale of property taken from the citizen after the struggle is terminated and after the period of disloyalty is consummated. Now, assuming that a citizen prolongs indefinitely the period of disloyalty, would the gentleman say that in that case, in spite of the action of the Federal Government, in spite of the surrender of the Federal Government—suppose the individual continued in his disloyalty and during the period of disloyalty suffered a loss such as is supposed to be covered by this litigation—would he be entitled to recover?

Mr. SISSON. I think he would, and I will give the gentleman my reason. I do not believe, in the first place, that one man can be disloyal to the Government unless you say he is disloyal in his heart, because if one man should become disloyal to the Government he becomes guilty of a crime, and you can punish him in the criminal court. Under our system of government, under our modern system, you can not confiscate the citizen's property.

Mr. BURKE of Pennsylvania. You can confiscate his property if he commits a crime.

Mr. SISSON. Yes; you do that, but you do it by imposing upon him a punishment for committing a crime. The man who committed acts disloyal to the Government could be punished in court and could be fined, and therefore you take his property away from him. But you can not take it by governmental action, by an army going down and taking property, and it ought not to do it solely because the man happens to be disloyal. It should be done by due process of law and not by legislative enactment.

Mr. BURKE of Pennsylvania. The gentleman will understand, of course, that my suggestion as to the commission of a crime has no connection with this case. Of course, I did not intend that it should have any bearing on this case.

Mr. SISSON. I understand that. I think the gentleman and I can come to an agreement.

Mr. BURKE of Pennsylvania. My question is, If the individual subsequent to June 1, 1865, continued in his disloyalty to the Government, would he be entitled to relief under this bill if it became a law?

Mr. SISSON. Well, first I want to understand what is the gentleman's definition of disloyalty. Would it be his disloyalty at heart, or must he manifest it in some act?

Mr. BURKE of Pennsylvania. In some overt act.

Mr. SISSON. If the army is in an organized state, every member of that army would be disloyal up until the moment of its surrender, but the moment the soldier surrendered, took his parole, the moment he agrees to lay down his arms against the Government and go back to his home, that moment that citizen's disloyalty ceases.

Mr. BURKE of Pennsylvania. But not the other citizens who had no connection with the military organization.

Mr. SISSON. That rule would determine the loyalty of every citizen—that the moment he surrenders and his parole is given and he goes home and agrees not to take up arms against the Government. Now, that was the case in 1865.

Mr. BURKE of Pennsylvania. If the citizens, on June 1, 1865, had surrendered, given up arms, made their peace, renewed their devotion to the Federal Government, then they were loyal citizens, and there is no bar in making that allegation and producing the proof as the law exists to-day.

Mr. SISSON. But unfortunately the law is as I read a moment ago.

Mr. BURKE of Pennsylvania. I recollect what the gentleman said. Would the gentleman, in the face of that admission, deny that any allegation of proof of loyalty subsequent to June 1, 1865, would be necessary in order to recover?

Mr. SISSON. So far as I am concerned I would be willing to answer the question, if it could settle the entire controversy and the bill could be passed. As far as I am individually concerned I would be willing to accept that sort of a compromise.

Mr. BEALL of Texas. But does the gentleman from Mississippi understand what that language means—subsequent to June 1, 1865?

Mr. BUTLER. I think the gentleman means prior to June 1, 1865.

Mr. BURKE of Pennsylvania. No; I do not mean prior to June 1, 1865. These claims here are based on the assumption that these citizens were loyal because the war had ended. There was no disloyalty existing there in their hearts or proven by their acts, but at the time of their loyalty in a period of peace the Federal Government confiscated their property, converted the property into money, and placed it in the Treasury, and they are seeking relief through the courts. My question is, If that is the case, and they were loyal, what is there to bar them against making an allegation and proving it?

Mr. BYRNES of South Carolina. Does the gentleman from Pennsylvania favor extending this requirement of loyalty to all claimants against the United States Government for property taken from them?

Mr. BURKE of Pennsylvania. I do not propose to enter into any academic discussion of the claims that have been and will be made against the United States Government.

Mr. BYRNES of South Carolina. I mean a claim arising to-day.

Mr. BURKE of Pennsylvania. This is a concrete proposition, and one of the most important that will arise in this Congress. It is one to which every Member of this House will give his

very best thought. The people who seek to make these recoveries are entitled to recovery if they are loyal and were loyal citizens of the United States and were not at fault and did nothing to defeat the justice of their claims.

Mr. BYRNES of South Carolina rose.

Mr. SISSON. Mr. Chairman, I must decline to yield further at this time. I desire to say to my friend from Pennsylvania [Mr. BURKE] that there is this difficulty about his fixing the period definitely. For example, quite a number of the Confederate soldiers surrendered prior to June 1, 1865. In fact, practically all of the soldiers had surrendered, and nearly all of them were paroled prior to June, 1865. Therefore if during the early part of 1865, after the Confederate Government had gone to pieces, after practically all of Tennessee, all of Mississippi, practically all of Louisiana, practically all of the eastern portion of Arkansas, all of Missouri and all of Kentucky had fallen within the Union lines, and during six months prior to this time this property was being taken, then the citizen who lost his property in the beginning of 1865, who himself had surrendered under that sort of an agreement, would be done an injustice. If we could arrive at the exact moment at which the citizen himself ceased to be disloyal to the Government, I would have no objection myself to fixing that date, but I fear that in many instances an injustice would be done to a great many people who ought to be paid for the cotton which was improperly taken from them.

Mr. BURKE of Pennsylvania. Does the gentleman think the claimant would be entitled to recover if he could not prove his loyalty on June 1, 1865, the day on which his property was taken? Under the suggested amendment, if he were not capable of proving his loyalty on June 1, 1865, the day on which his property was confiscated, does the gentleman think he ought to be entitled to recover? That is the crux of this whole proposition.

Mr. SISSON. I do not know that the gentleman and I could get any closer together than we have already gotten on this proposition. My proposition is that the private citizen should never lose his property so that the other government gets the benefit of his property. I think that is confiscation. To be frank, I think it is confiscation without due process of law. I think it is unjust and unfair. We would like to have all wars nice little affairs, but all wars are cruel. They are terrible. Therefore when a government is prosecuting a war and bombarding a city, it is utterly impossible for the government to direct its shots exactly where they will hit the fellow who is in arms. It is necessary that the government shall prosecute the war to a rapid and successful conclusion. Therefore no civilized government has ever paid for property which was destroyed as an incident of war. Nobody would ask the Federal Government to do it. I think he would be a very peculiar man who would ask the Federal Government to pay for property which was destroyed in the prosecution of a war, but I think it just and fair that if the Federal Government takes a private citizen's property and then goes into the market with that property and sells it and covers the net proceeds of the property into the Treasury, that the Government pay it back to the citizen, even though he had been disloyal. It is just and fair that he get it, even if at the time they took the property he was disloyal. I think the Government should pay him back what it took away from him. I hope I have made my position plain.

Mr. BURKE of Pennsylvania. The gentleman has, and my heart is with the gentleman as a general proposition that the Government should be both merciful and generous in all legislation affecting a period of this kind.

Mr. CARLIN. And just.

Mr. BURKE of Pennsylvania. And just, but the question in my mind, and it is a serious one, is whether or not the Government can go to the extent of paying out of its Treasury money that has been converted into it from the sale of property taken from individuals who were not loyal—who were positively disloyal—at the time the act of confiscation took place.

Mr. SISSON. I can realize fully how the gentleman's feeling would be in reference to this matter—perfectly honest and perfectly fair, as he is just as good as I am—and he can well understand that perhaps I would take a somewhat different view from what he does, maybe due to our peculiar environments and to the history and traditions of the respective sections in which we live, but I appreciate fully the gentleman's position and fairness, and, so far as I am individually concerned, I state without hesitation that if we could settle this matter upon that theory—while I do not agree with the gentleman in all his conclusions—and make June, 1865, the date at which the disloyalty should cease and the loyalty begin and all cotton taken after June, 1865, should be paid for provided the citizen could satisfy the Court of Claims that it was his cotton or that he was the heir to the party whose cotton was taken, I would be willing to settle it just that way if I could, but, of course, I am not in charge of the bill and could not do so.

Mr. WILLIS. I do not want to interrupt the gentleman, but in regard to the question of international law I understood the gentleman to say that if two countries were at war neither one of them would be allowed to make any profit out of the property of a private citizen of the other country. Did I understand correctly?

Mr. SISSON. I think that is true.

Mr. WILLIS. How does the gentleman apply that theory to the well-known doctrine with respect to contraband of war as recognized in international law?

Mr. SISSON. A contraband of war is based upon the doctrine that each government has the right of self-defense; therefore, to deprive the other government of the articles that have been agreed upon is proper, and those articles which are contraband of war now are very much less than articles which were contraband of war in the savage age of the world's history, because in the savage age of the world's history everything could be taken and a private citizen could be sold into slavery and you could bring in triumphant entry into your home a citizen chained to your chariot wheels. But governments have gotten more merciful, governments have become more civilized and have gotten upon a higher plane of thought and action, and it is something that we all ought to be proud of that we are permitted to live in an age when contraband of war has been so much restricted, for only those things which tend to prolong a war and tend to prolong the suffering and tend to prolong bloodshed have been construed to be contraband of war.

Mr. WILLIS. Just one more question. Does the gentleman think that cotton should properly have been considered contraband of war?

Mr. SISSON. Not under any circumstances. For instance, you could not take your cotton and eat it, you could not make powder out of it. Ordinary clothing is not contraband of war, or shoes——

Mr. WILLIS. How about money?

Mr. SISSON. Well, money, of course——

Mr. WILLIS. Now, cotton was money.

Mr. SISSON. I do not think the Confederate money would ever have been contraband of war. But seriously, for I consider the gentleman asked the question in good faith——

Mr. WILLIS. Oh, yes.

Mr. SISSON. There is no question but that cotton when sold to the Confederate Government was a proper contraband of war, because it then became an instrument in the hands of the enemy for the purpose of prosecuting the war, and therefore the Federal Government had the right to deprive the other Government of it. It is upon that theory, upon the theory of justice and in the interest of humanity and for the purpose of preventing bloodshed that the nations have made certain articles contraband of war.

Now, I do not know that there is anything I could say in support of this proposition more than I have said.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIMS. Mr. Chairman, I will not delay the House but a few minutes——

The CHAIRMAN. May the Chair ask the gentleman is he for or against the bill?

Mr. SIMS. Oh, I am for it.

The CHAIRMAN. It has been tacitly understood that discussion would be alternated, and the Chair would like to know if any gentleman opposed to the bill desires to speak?

Mr. SIMS. I do not know whether the gentleman from Mississippi has used as much time as the gentleman from Ohio or not. I do not desire to use more than 10 minutes in connection with this question of loyalty.

The CHAIRMAN. The Chair will say to the gentleman that he had promised to recognize the gentleman from Mississippi [Mr. CANDLER] after some one had spoken against the bill. If there is no one now desiring to speak against the bill, the Chair feels that he should recognize the gentleman from Mississippi.

Mr. MANN. Mr. Chairman, a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. MANN. How has the time so far been divided?

The CHAIRMAN. The Chair thinks it has been divided equally, barring the fact that the gentleman from Ohio [Mr. WILLIS] did not take his hour as intended.

Mr. MANN. I take it the gentlemen who desire to speak in favor of the bill are entitled to recognition. Did not the gentleman from Mississippi [Mr. SISSON] speak in the time of the gentleman from Louisiana [Mr. WATKINS]?

Mr. SISSON. No; I did not. I spoke in my own right.

The CHAIRMAN. The gentleman from Mississippi was speaking in his own right. There was a tacit understanding. The Chair recognizes the gentleman from Mississippi [Mr. CANDLER].

Mr. SIMS. I did not want over 5 or 10 minutes right on this point.

Mr. CANDLER. Mr. Chairman, it is not my purpose or intention to detain the House for any considerable length of time, but I do feel it is important in discussion of this measure that we get back to the question itself and discuss that for a few moments, and if we can find out exactly what is involved here, then to dispose of this question and eliminate all these side issues that have been injected into it up to the present time.

Now, section 162, which is a part of the Judiciary Code, and which was adopted and approved on March 3, 1911, provides that the Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the specifications of the act of Congress approved March 12, 1863, entitled:

An act to provide for the collection of abandoned property and for the prevention of frauds and insurrection in districts within the United States.

And so forth.

And this bill simply provides for adding one provision to that section. That is all there is involved in it, and that provision is simply this:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

When Congress passed this act, section 162 of the Judiciary Code, it was the intention at the time that this money which is in the Treasury of the United States should be refunded to the people to whom it belonged. That was their intention, and it was evident at the time, and there was no question about it. Subsequent to that there has arisen some idea that possibly the question of loyalty is involved. If it had arisen at that time there is no doubt that it would have been incorporated in section 162, because Congress had the power to say that this money that had lain in the Treasury all these years should go back to the people to whom it belonged. That was the purpose, that was what was intended, and that was what was desired. It not having accomplished that beyond question, this idea of loyalty being involved and having arisen, and being presented since, this provision is intended to remove that, no more and no less.

This money has been in the Treasury of the United States for all these years. It belongs to these people who are mentioned in the report of the Treasury Department. They have furnished a list of them, which is included in the Senate document printed in the Forty-third Congress. As to the question of whether it belongs to these people there can be no doubt.

The gentleman from Ohio [Mr. WILLIS] asserted a moment ago in his argument that it belonged to the United States, that it was not a trust fund, but the propery of the Government, and that if these claims were allowed and were paid it would come out of the general funds of the Treasury and would be that much of a charge upon the Treasury of the United States. He is incorrect in that if the Supreme Court is correct, because the Supreme Court has held, in so many words, in the case of Klein, which is decided in Thirteenth Wallace, that this is a trust fund and that the Government of the United States is simply the trustee of these parties, holding the money for the time to arrive when they establish and prove their claim and receive the proceeds arising therefrom.

Mr. WILLIS. Will the gentleman yield?

Mr. CANDLER. Right on that point, yes; I yield with pleasure.

Mr. WILLIS. Has the gentleman considered the Haycraft case, which was a later case than the Klein case, in which it distinctly and clearly says it is not a trust fund? He knows that is held in the Haycraft case. It says so clearly and definitely. I wondered whether his attention had been called to that decision or not. It is a later decision than the one in the Klein case.

Mr. CANDLER. Does it profess to overrule the Klein case?

Mr. WILLIS. Oh, absolutely.

Mr. CANDLER. I do not agree with my friend. In this case it says, in so many words:

We conclude, therefore, that the title to the proceeds of the property which came to the possession of the Government by capture or abandonment, with the exceptions already noticed, was in no case divested out of the original owner. It was for the Government itself to determine whether these proceeds should be restored to the owner or not. The promise of the restoration of all rights of property decides that question affirmatively as to all persons who availed themselves of the proffered pardon.

I am frank to say if that case has been overruled I am not advised of it, and my information is, after investigation made by myself and by others, that it has not been overruled, but is still the law of the land as announced by the Supreme Court of the United States. That being true, the only question which is presented here is whether or not at this late day you will continue to interpose technical objections which have no substance to them in order to prevent the return of the money to these people that is held by the Government of the United States simply as a trust fund, acting as a trustee for these people. I do not believe after all these years that have passed and gone you will continue to resist the return of the money which honestly belongs to these people, but that in these days of peace, plenty, prosperity, and happiness, which is broadcast in the land, we will arise above technicality and do that which is just and which is right, that which ought to have been done a long time ago, in order to meet the standard of justice and the standard of right when it is applied to these people.

The gentleman referred to other bills and stated what was involved in them. There is no bill pending before this House at this time except this little simple bill which is now under consideration, and what may be contained in other bills of course has nothing to do with this bill.

As I said at the outset, the question for us to determine at this time is what is involved in this identical bill itself, and as to whether it is just, and as to whether it is right, and as to whether it should be passed or not, and not to consider in any degree any other bill which may come up hereafter. When such another bill does come up, it will be considered on its own merits and be disposed of as may be just and right at that time. So, I say, let us eliminate everything else and simply take this bill itself into consideration and determine it upon its merits and pass upon the justice of its provisions; and when we shall have done that we shall have discharged our duty.

Now, I do not care to detain the committee further. I simply wanted to call attention to this one proposition which is presented in this bill, and to impress upon the Members of the House the fact that propositions in other bills have nothing to do with this bill at the present time. If these other bills come up later, they will be considered and disposed of when the time arrives for their consideration.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield for a question?

Mr. CANDLER. I will yield for any question that occurs on this point, but I do not care to take up these outside matters.

Mr. BURKE of Pennsylvania. I hope the gentleman does not think that I would attempt to argue an irrevelant question.

Mr. CANDLER. I did not insinuate anything like that.

Mr. BURKE of Pennsylvania. Do I not understand that the gentleman from Mississippi made a very able argument in support of another House bill of this character?

Mr. CANDLER. Will the gentleman please designate the bill?

Mr. BURKE of Pennsylvania. That is the Byrnes bill.

Mr. CANDLER. I have not seen it and do not know its provisions.

Mr. BYRNES of South Carolina. I can inform the gentleman that the bill he refers to has not been considered, and that therefore the gentleman from Mississippi has not spoken upon it.

Mr. CANDLER. I have not seen its provisions, and therefore I could not express my opinion about it.

Mr. BURKE of Pennsylvania. I understood that the gentleman from Mississippi made a very able speech in favor of that bill.

Mr. CANDLER. No, sir. The gentleman from Mississippi made a speech in favor of the consideration of a bill of his own.

Mr. BURKE of Pennsylvania. I know he did make a very able speech in favor of a bill.

Mr. CANDLER. I thank you for insisting I made a "very able speech" on that bill, but the thing I am now seeking to impress upon the House is that we should not consider extraneous matters or other bills that may come up later, but to only consider this bill at this time. The future will take care of itself. [Applause.] We should consider this and dispose of it now, and when we shall have done that, we will have done well. I do not want to detain the House, but again urge upon the Members the importance of considering this bill and disposing of it, and the sooner the better, and thereby we will do tardy justice to patriotic citizens who have waited long, but I hope waited not in vain. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RODDENBERY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the

Senate had disagreed to the amendments of the House of Representatives to the bill (S. 6380) to incorporate the American Hospital of Paris, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. CURTIS, and Mr. MARTINE of New Jersey as conferees on the part of the Senate.

The message also announced that the President pro tempore had appointed Mr. CLARKE of Arkansas and Mr. BURNHAM members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of Justice.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The committee resumed its session.

Mr. GREEN of Iowa. Mr. Chairman, I was at first opposed to this bill, but on further examination as to the title of this property I am led to favor it.

I wish to speak now very briefly concerning it, because I think a misapprehension rests upon the minds of many Members on this side of the House as to the status of the title of this property. This money is not the property of the United States. This property, of which the proceeds have been paid into the Treasury of the United States, has never been confiscated. The title to it has never been divested. It is still held in trust for the owners, and it never can become the property of the United States or be made available to the people of the United States except by some further act of confiscation at this late date.

Now, that is the precise holding in the Klein case, which has been cited by the gentleman from Ohio [Mr. WILLIS], who has so vigorously opposed this bill, and yet I doubt very much whether he would be ready at this time to advocate the passage of any further act of confiscation.

Mr. BUTLER. Then, Mr. Chairman, it will require a law, as I understand it, to make it the money of anybody?

Mr. GREEN of Iowa. It would, most assuredly.

Mr. WILLIS. Mr. Chairman, is the gentleman aware that in the Young case, which I mentioned a moment ago—the stenographers have the transcript now in hand, otherwise I could quote the passage—the court says definitely that the bonds to which reference is made are not a trust fund, but belong absolutely to the Government of the United States? That is what the Supreme Court says in the Young case, quoted in the Brandon case.

Mr. GREEN of Iowa. I think the gentleman refers to a case based on altogether different facts.

Mr. WILLIS. No; that is the case.

Mr. SISSON. I do not want to interrupt the gentleman, but I think the gentleman from Ohio is referring to the contention that is made, that where cotton was sold to the Confederate Government and none of the proceeds ever went into the hands of the original vendor of the cotton, then the Confederate Government became the trustee of the vendor, and the court held that that was not true, that it was the absolute property of the Confederate Government. That, however, has no application to the cases that would come under this bill.

Mr. GREEN of Iowa. I think the gentleman from Mississippi is absolutely correct, as will be found from an examination of the case. I wish to read to the House the holding in the Klein case. The syllabus says that—

> The act of March 12, 1863, to provide for the collection of abandoned and captured property in insurrectionary districts within the United States, does not confiscate or in any case absolutely divest the property of the original owner, even though disloyal.

And in the dissenting opinion in that case, in which, however, the dissent was based on grounds which are not material to the discussion now being carried on, the author of the dissenting opinion says:

> If I understand the present opinion, it maintains that the Government, in taking possession of this property and selling it, became the trustee of all the former owners, whether loyal or disloyal, and holds it for the latter until pardoned by the President, or until Congress orders it to be restored to him.

Now, as has been so often said here, more than a generation has elapsed since the Civil War. The passions which were aroused by that great struggle have subsided, if they have not totally disappeared. The bitterness which was brought about by it has died away. In my judgment it is too late now to originate any new punishments for the acts which were committed at that time. The mantle of charity, if nothing else, ought to be thrown over all of the deeds done at that time. [Applause.] We ought not now to bring up these questions in this manner, which would enlarge rather than restrict the doctrine of confiscation for acts done in time of war, but, on the contrary, we should now say that peace has so long prevailed that the time for punishment for the acts done in those days has passed, and that they ought to be forgotten.

As I said before, this act takes nothing from the Government. It takes nothing out of the Treasury except in the sense that when a man draws a check on his own account in a bank he removes money from it. In such a case it is money which belongs to him. This money now in the Treasury can never be used by the people of the United States, can never belong to them without some further act of Congress, and I do not believe there is a man in the House who would countenance any action of that kind. [Applause.]

Mr. SIMS. Mr. Chairman, I do not wish to take very much time, but I want to explain first, as I think I can, why there are two bills here substantially for the same purpose, one the Byrnes bill and the other the bill under discussion. The Byrnes bill was introduced and referred to the Committee on War Claims, reported by that committee, and went on the calendar. Speaking for myself, and I think I can speak for every member of the committee, we did not even know that the present bill had been introduced. I do not know what the fact is with reference to the Committee on the Revision of the Laws, but it is quite probable that it did not know that the War Claims Committee had a similar bill, and therefore two bills have been reported by two different committees for substantially the same purpose, each bill having been properly referred. In other words, the committees having jurisdiction could have acted in each case.

Some amendments may be offered to this bill when we reach that stage, but if this bill becomes a law it is not my purpose as chairman of the Committee on War Claims, nor do I think it is the purpose of the gentleman from South Carolina [Mr. BYRNES] to press that bill for passage at all, it being practically for the same purpose. I say this to remove the idea that there was a "system" by which a number of bills were to be passed, one to accomplish one purpose, another another, and each to dovetail into a general system by which money could be gotten out of the Treasury which otherwise could not be taken out of it.

On the question of loyalty I wish to be heard for a few moments. Before the Civil War the Court of Claims was open to the people of the South as well as to anybody else to assert claims against the Government of the United States; but when certain States were declared to be in a state of insurrection and war, the people of those States were not permitted to bring suit in the Court of Claims, but exception was made that persons bringing suit in the Court of Claims must prove their loyalty as a jurisdictional fact in order to get into the court at all. Even now the court will not hear any proof whatever on the merits of a claim, when the question of loyalty applies, until that question is settled by the court.

It is jurisdictional. If the court finds against the loyalty of the claimant there is no use in taking any proof in reference to the value of the property.

Now, with reference to the act of 1863, I did not know that the gentleman from Iowa [Mr. GREEN] was going to refer to the decision he has, but I am glad he did so, for I intended to do so myself. I understand the decision read holds that the question of loyalty has no relation to the title of the Government to captured and abandoned property, and holds same in trust for the true owners.

Mr. MANN. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. MANN. The gentleman does not wish to make an erroneous statement?

Mr. SIMS. Not at all.

Mr. MANN. The gentleman from Tennessee must be familiar with the fact that under the act of 1863 no person could recover in the Court of Claims who had given aid and comfort to the rebellion.

Mr. SIMS. I understood the decision of the court which was read held that captured and abandoned property, under the act, was not the property of the United States.

Mr. MANN. But the gentleman's statement was that the act did not have anything in it as to a question of loyalty.

Mr. SIMS. Now this bill, I think erroneously, limits the claims arising under it to June 1, 1865. I think it ought to apply to all of them because the bugaboo of Confederate ownership of the cotton has nothing in it. In order to recover the claimant must prove his ownership. It would be an absolute defense to show that the Confederate Government owned the property or that an individual owned it other than the claimant. That is a positive requirement of the owner of a property in any suit, to show title is in himself. Consequently the bugaboo that a large amount of this cotton did belong to the Confederate Government has nothing to do with this matter and could not be paid for under this bill.

What is loyalty? Mere negative do-nothing loyalty does not count for anything in the court; it is the loyalty that is active and affirmative, loyalty that can be shown and proved by affirmative acts. But I want to say that it was a much harder matter to be affirmatively loyal in the South than it was north of the Ohio River. More penalty and more misfortune might follow an act of loyalty in the South than it would in the North. In the North a man might get some credit for it, and at heart hope that the Confederates would win. Some men in the South may have failed to show any affirmative evidence of loyalty when, perhaps, in their hearts they were very loyal. We should look at the surrounding circumstances at the time that the property was taken. But the court has held that loyalty must be established by affirmative acts. The gentleman from Pennsylvania wants an amendment to this bill so that a man should show loyalty by an affirmative act after 1865. When the war was flagrant in the Southern States the presumption was that all were disloyal who lived in those States, consequently he wants the benefit of it and the applicant must prove his loyalty. Now, does the gentleman from Pennsylvania want a statute that any party suing for property taken after June 1, 1865, must prove by affirmative acts his loyalty in order to go into the court of the country or the Nation that took the property? Such an amendment ought not to be tolerated for a moment. The presumption is, after the war was over and all armed bodies of men opposing the Government had surrendered, and men who had shot at each other in battle were at home plowing the fields, that then a man could go into the court without establishing affirmatively that he is still loyal or that he has been loyal all the time, or loyal at all. I am surprised that the liberal-minded gentleman from Pennsylvania would advocate an amendment of that kind to a bill; that a person whose cotton was taken after June 1, 1865, should as a condition precedent have to prove that he is or was loyal. You might as well say now that he would have to prove a condition of loyalty in order to go into the courts. The general presumption should be that every man is loyal until proof shows the contrary, and he should not be required to assert it in his petition.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Certainly.

Mr. BURKE of Pennsylvania. Is not that very presumption which the gentleman now mentions, that every man once having been disloyal continues to be disloyal, the basis of the necessity for this bill? And if that presumption did not exist, would this bill be in the House to-day?

Mr. SIMS. The gentleman's presumption——

Mr. BURKE of Pennsylvania. But it is not my presumption. It is the presumption on which this measure is predicated.

Mr. SIMS. The law which the bill is intended to amend provides that the claimant must prove loyalty throughout the war.

Mr. BURKE of Pennsylvania. The gentleman now is discussing my proposed amendment.

Mr. SIMS. Yes. I mean the law as it now stands provides that he must assert and prove loyalty during the Civil War.

Mr. BURKE of Pennsylvania. If he is presumed to be loyal on the 1st day of June, 1865, and, as a matter of fact, he is loyal, what harm can there come from inserting that amendatory provision in this bill?

Mr. SIMS. If there is a general presumption in favor of his loyalty, why the requirement that he shall prove that he is loyal?

Mr. BURKE of Pennsylvania. If there is a general presumption in favor of loyalty, why is this bill here at all?

Mr. SIMS. Because it is to amend a law that says his loyalty must be proven throughout the Civil War.

Mr. BURKE of Pennsylvania. Then it is to fix definitely his status before the Court of Claims, is it not; and if the purpose is to fix it definitely, why not insert the date?

Mr. SIMS. This is to waive the question of loyalty as a defense for property taken after June 1, 1865, and has nothing to do with the condition of a citizen who had property taken after that time occupied prior to that time, and the gentleman from Pennsylvania wants to amend this bill by requiring the citizen whose property is taken after all reason and cause for being disloyal has ceased to prove that he was a loyal citizen at the time it was taken.

Mr. BURKE of Pennsylvania. The gentleman wishes to amend the bill so as to carry out the very provision that the gentleman from Tennessee says exists as a matter of fact, and that is that the citizen was loyal on and after June 1, 1865, and that because he was loyal then he is entitled to recover, and should not suffer because of the act of the Federal Government. The gentleman and I do not disagree in one iota except as to the insertion of this date.

Mr. SIMS. If there is a general presumption of loyalty, then there is no need of making proof of the general presumption as a jurisdictional fact.

Mr. BUTLER. When does that presumption arise?

Mr. SIMS. We propose to make it arise from and after the 1st of June, 1865—from that date on.

Mr. BUTLER. It does not arise when the war was legally held to be ended?

Mr. SIMS. For some purposes, as has been expressly stated here, August 20, 1866, was declared by act of Congress to be the end of the war, but does the gentleman from Pennsylvania want the whole country to think, and the people who follow us and read our history to think, that we became loyal only or ceased to be disloyal after August 20, 1866?

Mr. BUTLER. No; I do not want anything of the kind.

Mr. SIMS. Then why, as a jurisdictional fact, does the gentleman want citizens of the United States south of the Ohio River, or those residing in the States in insurrection, to prove loyalty in order to go into a United States court to recover property taken after the war had ended but prior to August 20, 1866? It would simply be practically making the legislation useless to put in this requirement. To compel a man whose property was taken after June 1, 1865, to go to court and allege that he was loyal from that time on, and compel him to prove that before he can take one syllable of proof as to the value of the cotton taken, would be to make the legislation useless.

Mr. BURKE of Pennsylvania. Would it be useless if the claimant were capable of proving that fact absolutely?

Mr. SIMS. If he were capable of proving the fact, he could recover his claim. Was not almost every man north of the Ohio River during the war capable of proving his loyalty? And yet we do not require that of him.

Mr. BURKE of Pennsylvania. But there is no sectional line drawn in this bill, and there is no reference to it at all.

Mr. SIMS. The facts of history draw it.

Mr. BURKE of Pennsylvania. The facts of history might draw it.

Mr. SIMS. And the law requiring proof of loyalty may draw it.

Mr. BURKE of Pennsylvania. The gentleman now, by this legislation and by his admission on the floor of this House, has established a period during which he admits there was an active hostility and a real disloyalty and after which there was no hostility, and after which there was peace, harmony, love, and devotion to the Republic; and during that latter period, he says, it is an imposition to compel the individual to state as a matter of fact in his pleading that he was loyal on the day after the war and on the day his property was confiscated for which he desires compensation from the United States.

Mr. SIMS. I do so, and think it is a reflection on him. The presumption is that, outside a state of hostility and war, all people are loyal to the flag under which they live; and to say that a citizen of the United States has to prove loyalty to the Nation before he can go into a court to have his grievance adjusted is a reflection upon every person to whom such a law can apply. You might prove it as a defense that a man was an outlaw and no longer entitled to go into the courts of the country, but I know of no such defense.

Mr. BUTLER. If the gentleman will permit, I am not asking the gentleman for the purpose of asking questions——

Mr. SIMS. I know that.

Mr. BUTLER. I wish to ask why the 1st of June is fixed?

Mr. SIMS. We have fixed this arbitrarily because of the fact, as the gentleman knows, there was no state of organized insurrection or a state of war after that time, and it seems to me absolutely, with all due respect, to be raising a technical defense against just claims to require anything of the sort. It is wholly unnecessary and useless. I do not care even if he was a Confederate soldier who came home and raised the cotton and it was taken from him after June 1, 1865, even if he was a paroled soldier, to say that he must go into court and affirmatively allege that he had not violated the terms of surrender, in order to have a standing in the court, is wrong. Much of this cotton was planted after the war ended, and harvested, and it was taken after the war was ended.

Now, I am like the gentleman from Mississippi as to the property bought by the Confederate Government to which title had passed. I do not see there is any reason, unless as a matter of charity, that we should pay those claims, and this bill does not provide anything of that sort. I do not know how many of these claims are left unpaid, but the Attorney General seems, from the communication read by the gentleman from Ohio [Mr. WILLIS], to speak about depriving the Government of the defense of limitations. There is not a man in this House who will plead the statute of limitations to any admitted liability against himself.

Mr. BUTLER. Will the gentleman inform me—this fund was originally about $25,000,000 or $26,000,000?

Mr. SIMS. I do not know how much it was.

Mr. BUTLER. The gentleman can not state?

Mr. SIMS. About $10,000,000 is my recollection.

Mr. BUTLER. A reduction has been made in it?

Mr. SIMS. Yes.

Mr. BUTLER. Can the gentleman tell how that reduction was made upon proof of claims against it?

Mr. SIMS. By payment of claims out of it.

Mr. BUTLER. Was loyalty in the case of those claims insisted upon?

Mr. SIMS. I can not answer positively about that.

Mr. BUTLER. The gentleman does not know?

Mr. SIMS. No, I do not; but I will say there is not a man who will plead the statute of limitations to an admitted liability. There is not a gentleman in this House who would as a man do a thing of that sort. Why would he get up here and ask that the Government of the United States should have a lower standard of honor than the citizenship of the United States? Here are these claims paid into the United States Treasury. They are there now. As the gentleman from Iowa [Mr. GREEN] showed, the Government has no title to the money, but is the mere custodian of it, and yet the Attorney General of the United States wants to plead the statute of limitations as a custodian.

Mr. GREEN of Iowa. I will say the statute of limitations was removed by the statute to which this is an amendment, and it is put in this statute simply to make all in one statute, but the limitation was removed by a previous statute.

Mr. BURKE of Pennsylvania. Does the gentleman regard the pleading of the statute of limitations as an evil?

Mr. SIMS. I would regard any man or any government pleading the statute of limitations to an admitted liability as being morally wrong.

Mr. BURKE of Pennsylvania. Then, if that is true, is it not a greater evil to establish a statute of limitations, which the gentleman does in this bill?

Mr. SIMS. No, sir.

Mr. BURKE of Pennsylvania. If the claim is just, why establish a limitation at all, as he does in this bill, after January 1, 1915?

Mr. SIMS. I am not in favor of it, and it is not in the bill that the Committee on War Claims reported.

Mr. BURKE of Pennsylvania. If it is an evil here, does the gentleman defend it at all?

Mr. SIMS. The gentleman as a lawyer understands the policy of the statute of limitations.

Mr. BURKE of Pennsylvania. I do not see any evil in it.

Mr. SIMS. There is an evil in it when you recite it in a case where the person is sued sui juris.

Mr. BURKE of Pennsylvania. If these claims are right, why should any man be limited to any period of time for the recovery?

Mr. SIMS. I am not in favor of it.

Mr. BURKE of Pennsylvania. Will the gentleman move to amend the bill accordingly?

Mr. SIMS. I will be glad to vote for such an amendment.

Mr. BURKE of Pennsylvania. I will be glad to see you do it.

Mr. SIMS. I will be glad to strike it out. The object of the statute of limitations is to quiet titles and cause people to settle matters while they are fresh in the minds of everyone, and to avoid perjury or temptation to perjury. If these claims had to be proven by witnesses at this late day, the temptation of interested parties to color their testimony and swear falsely would be so great that the House ought to hesitate to open the doors of the courts to them, but when the money has been in the Treasury of the United States so long that the memory of man runneth not to the contrary——

Mr. BURKE of Pennsylvania. And the loss to the owners of that money——

Mr. SIMS. Yes; and the loss to those who were reported to the Treasury as being the ones who lost it. The Treasury has had it long enough that, if it had been put out at simple interest, it would have doubled two or three times, and with the amounts admitted, shall we, representing the people of the United States, refuse to open the doors of the courts to persons who own this property and those persons who will have to establish their cases according to the law and rules of evidence as required by the Court of Claims?

Mr. GREEN of Iowa. Will the gentleman yield for a moment?

Mr. SIMS. Certainly.

Mr. GREEN of Iowa. On that question of the statute of limitations, section 162, which is amended and reenacted, or proposed, rather, to be amended and reenacted by this bill, provides that full jurisdiction as given to the court to adjudge said claim, any statute of limitations to the contrary notwithstanding. This is not a new provision at all, so far as the statute of limitations is concerned. It is simply put in to make the clause complete.

Mr. SIMS. I understand that; but the gentleman from Ohio [Mr. WILLIS] very eloquently argued the benefit of the statute of limitations, and he seemed to be borne out by the Department of Justice saying it would remove a defense which now existed.

Mr. COX of Indiana. I would like to ask the gentleman a question for information.

Mr. SIMS. Certainly.

Mr. COX of Indiana. I heard a great deal here about the names of certain claimants in some document. Have those claims been adjudicated by the Court of Claims?

Mr. SIMS. No; it simply gives them the opportunity to go there.

Mr. COX of Indiana. That opens the doors?

Mr. SIMS. That opens the doors.

Mr. COX of Indiana. Is this bill on the part of these claimants introduced because the law has already cut them out?

Mr. SIMS. It is for those who did not file while the law permitted filing. They have been shut out, of course.

Mr. FOWLER. Is there any other fact in the way of making out these claims except the requirement that proof of loyalty shall be made by the claimant?

Mr. SIMS. I think that is all.

Mr. FOWLER. And when that is proved, then that gives the claimant an opportunity to make his proof complete. Is that true?

Mr. SIMS. In the Court of Claims. That is my understanding.

Mr. Chairman, I did not aim to occupy as much time as I have, as this bill is still to be considered under the five-minute rule; but I hope that neither the gentleman from Pennsylvania [Mr. BURKE] nor any other gentleman will offer an amendment that will require anybody to prove loyalty in order to recover for property taken subsequent to June, 1865, as a jurisdictional fact that must be established before they can even submit the evident merits of their claims to the consideration of the court.

Mr. BURKE of Pennsylvania. With reference to the last suggestion of the gentleman from Tennessee [Mr. SIMS] and the remarks of the gentleman from Iowa [Mr. GREEN], we are not concerned as to what particular fund this money is applied in the Treasury of the United States, so long as it remains there. The question before this committee is, Shall it be removed from the Treasury; and if so, by whom? And the question in my mind is, as this appears to be advanced as an equitable proposition, whether or not the individual who seeks the removal of that money from the Treasury of the United States to his own pocket shall do so with clean hands.

It is perfectly obvious to me that there can be no legitimate objection whatsoever to the amendment that I have suggested, and to which the gentleman from Tennessee [Mr. SIMS] has so vigorously objected. He says, in substance, that it would be an insult to compel any man south of Mason and Dixon's line to make an affidavit as to his loyalty. Mr. Chairman, the absurdity of that argument is apparent from the fact that every Member of this House, the gentleman from Tennessee included, when he entered this House at the beginning of this session, and at the beginning of every session since he has rendered able service in the American Congress, has raised his hand before the Speaker and took the oath that he would be loyal to and defend the Constitution of the United States. Was there any insult, either actual or implied, in compelling Members from the North and South to do that? Was there anything degrading in it? Was there anything humiliating? And if a Member of the House of Representatives, chosen by his people to perform the high function which we are sent here to perform, can do so without surrendering his honor or his self-respect, why can not a claimant who seeks to place his hand in the Treasury of the United States go at least to that extent without being humiliated or being deprived of any inherent rights as a citizen?

The gentleman from Tennessee says we are living now in a period in which the war should be forgotten. Every American should subscribe to that suggestion, and I will go one step further and say that it was the duty of every man who now seeks to drain the Treasury of the United States to have forgotten the war after June, 1865, and if he did not forget the war and prolonged his antagonism to the Government, and if during that active hostility to the Government his property was confiscated as an incident of that war or that antagonism, he can not come to-day to the Treasury of the United States with

clean hands and is not entitled to the equitable relief which is sought to be granted by this measure.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BURKE of Pennsylvania. Very gladly.

Mr. GREEN of Iowa. Does the gentleman mean to say that the oath now required of Members of this House goes further than the oath now required of these claimants under this statute to enable them to recover?

Mr. BURKE of Pennsylvania. I did not. The oath required in the amendment which I have suggested appertains to the loyalty of a citizen in a time of peace in this country, when, as the gentleman from Iowa and the gentleman from Tennessee declare, every citizen was presumed to be loyal; and if he was presumed to be loyal, I am willing to have the presumption coincide with the fact that he was loyal, and I want the record to show it. Every Member of this House is presumed to defend and support the Constitution of the United States, and I am willing in that case to have the presumption and the actuality harmonized and encouraged by taking my official oath. And inasmuch as we do take that oath in accordance with law and custom, I can see no humiliation, no surrender of my rights, no detraction from my dignity in appearing before the Speaker and taking the oath to which I referred.

Mr. GREEN of Iowa. With the gentleman's permission, I would inquire a little further, if the gentleman thinks it would be proper to require Members of Congress to take an oath similar to the one required of claimants under this statute?

Mr. BURKE of Pennsylvania. I would say that if a Member of the House were seeking to take from the Treasury of the United States money based upon a transaction 50 years old, at a time when his loyalty to the Republic may have been in question, it would be perfectly proper to compel him to make the declaration that at the time of the act complained of he was loyal to the Union and entitled to relief at that time, because if he was not entitled to relief at the hour of the confiscation he is not entitled to relief now, nor would he be 100 years from now.

Mr. GREEN of Iowa. If the gentleman puts it on that ground, is he not aware that under the laws of nations the property of noncombatants is, as a rule, exempt from seizure?

Mr. BURKE of Pennsylvania. That may possibly be.

Mr. GREEN of Iowa. And that this provision as to proof of loyalty goes much beyond that.

Mr. BURKE of Pennsylvania. But the proposed amendment only states that he was a noncombatant on June 1, 1865.

Mr. GREEN of Iowa. Oh, no; it goes much further than that.

Mr. BURKE of Pennsylvania. It simply states that he was loyal in June, 1865. To be disloyal involved the same offense as being a combatant. There is no question about that. The disloyalty is established by his attitude toward the Government at that time. The gentleman will not contend that if he was disloyal at the time, whether it was in bearing arms or in giving aid and comfort to another enemy of the Republic, it would make any difference. If he was disloyal at noon on the 1st day of June, 1865, and at noon on the 1st day of June, 1865, the Government confiscated his property, as an incident to and during his disloyalty, he is not entitled to relief. There can be no hardship in compelling him to state what my friend says is an obvious fact, that he was loyal on that date and that he then sustained and was then maintaining the same status of loyalty to the Government as the gentleman from Tennessee [Mr. SIMS] and the gentleman from Iowa [Mr. GREEN] now sustain with reference to the Government and with reference to this House.

The gentleman says it is a shame and an imposition upon citizens of this Republic that the Attorney General should plead the statute of limitations after half a century of time has passed, during which time the party to which he belongs has been in control of the Government. Yet now at this time the gentleman from Tennessee [Mr. SIMS] and the proponents of this bill establish a statute of limitation in the very act now pending before the committee.

Mr. GREEN of Iowa. Will the gentleman yield for a question?

Mr. BURKE of Pennsylvania. Yes.

Mr. GREEN of Iowa. Is not the gentleman aware that this bill does not bring forward the statute of limitations, but that it was in the statute and is there now without this bill?

Mr. BURKE of Pennsylvania. The gentleman knows that in italics on the first page, in the second section of this bill, there appears a provision which in itself is a statute of limitation, and which in itself controverts the argument of the gentleman from Iowa [Mr. GREEN] and of the gentleman from Tennessee [Mr. SIMS] that a statute of limitations should never work in behalf of a government against a citizen of that government. If it should work in this case and in this measure, which they propose and which the gentleman from Iowa advocates, why should it not in a greater degree obtain with reference to an act occurring nearly 50 years ago?

Mr. SISSON. In view of the fact that the clause relating to loyalty has always been in the laws since the Civil War, does the gentleman think it quite fair to say that the Government ought to invoke the statute of limitations, when the parties have been prevented by that very statute from bringing the suit?

Mr. BURKE of Pennsylvania. The contention of the gentleman from Tennessee [Mr. SIMS] is that it is fundamentally improper for the Government to plead the statute of limitations against a citizen and an innocent claimant.

Mr. SISSON. I do not know that I go quite so far as the gentleman from Tennessee does, but in this particular case——

Mr. BURKE of Pennsylvania. I do not believe the gentleman from Mississippi will go that far. I have not found any two gentlemen, advocates of this bill, who did agree.

Mr. SISSON. But in this particular case the fact that the citizen could not bring the suit would be at least an extenuation and a reason why he had not brought it prior to that time.

Mr. BURKE of Pennsylvania. There have been 50 years of legislation and legislative bodies during which that statute could have been removed.

Mr. SISSON. Will the gentleman yield again?

Mr. BURKE of Pennsylvania. Yes.

Mr. SISSON. The gentleman realizes that the temper of the country in former times was entirely unlike the temper of the country now; and he realizes also that we sometimes, perhaps unwisely, take advantage of certain situations in politics that we would not take advantage of in business with each other. And, while it is not necessary to discuss that condition which formerly prevailed, we are all happy that that condition does not now prevail.

Mr. BURKE of Pennsylvania. There is no gentleman more happy over the realization of what was once a dream and is now a reality than the gentleman who has the floor; and the gentleman from Pennsylvania, who has the floor, had the honor to present to the House the bill appropriating a quarter of a million dollars to bring about and perfect the great reunion on the battlefield of Gettysburg, in which we hope every Confederate veteran will join with the boys in blue who fought against them in former days. [Applause.]

Mr. SISSON. In answer to what the gentleman said about the reunion, I want to say that I believe that all Confederate soldiers are going to be there that can get there. [Applause.]

Mr. BURKE of Pennsylvania. I hope the gentleman from Mississippi will come along. I will state further that, much to my gratification and State pride, the Commonwealth of Pennsylvania has done her share and will do more to carry out the program both from the standpoint of the treasury and that of hospitality which the gentlemen of the South are so much entitled to. [Applause.]

Now, the fact that this statute of limitations has existed during all this period to my mind, instead of being a basis of criticism, is a vindication of it, because it has been sanctified by the seal of 40 or 50 years of approving history during which men have considered it probably in every Congress, if not formally, at least they have in their minds.

The fact that it has never been removed and still remains the law is in itself a vindication of its right to exist, and if its right to exist in that form and in the form of the amended bill before us is vindicated, what justification can there be for the criticism directed against it by the gentleman from Tennessee?

Mr. GREEN of Iowa. Why does the gentleman from Pennsylvania say that the bar of the statute was never removed when it was removed by a clause in the revised code?

Mr. BURKE of Pennsylvania. I find there is a conflict between gentlemen advocating the bill. The gentleman from Tennessee says the statute of limitations did and does exist, and now the gentleman from Iowa proposes to show that it has been removed and does not exist. I am at a loss to reconcile the arguments of gentlemen behind the bill. I am willing to agree with the gentleman from Iowa if his statement stands alone, and I only disagree with him to the extent that I am justified by the gentleman from Tennessee saying that the statute does exist and that it is to remove that statute practically that this bill is proposed.

Mr. GREEN of Iowa. I hold the authority in my hand, which the gentleman can examine, or I will read it to him.

Mr. BURKE of Pennsylvania. I will take the gentleman's statement of fact, or any statement of facts he may make on this floor. We may disagree on a legal proposition, but I state again that I find the gentleman from Iowa and the gentleman

from Tennessee in wholly irreconcilable positions. That is my misfortune, because I would like to have the light of both their torches blaze my way.

Mr. SISSON. If the gentleman from Pennsylvania will pardon me, I did not hear what the gentleman from Tennessee said, but if he made the statement that the statute of limitations now interferes, he is entirely mistaken, because the civil code repealed the statute of limitations in reference to these claims.

Mr. BURKE of Pennsylvania. If that is true and the statute of limitations does not exist, then what justification is there in the complaint of the gentleman from Tennessee that the Attorney General of the United States has committed an unjust act in pleading the statute of limitations in these cases?

Mr. SISSON. I did not hear the gentleman's statement; but the only trouble now in the way of these claims is the question of loyalty.

Mr. BURKE of Pennsylvania. That is very true; and I say at this time that any man who seeks to take from the Treasury of the United States under circumstances similar to this, who hesitates to admit his loyalty to the Nation on the date of the confiscation, whether he hesitates because of the fact, or because of false pride, or from any other motive, is not entitled to recover a copper from the Treasury of the United States.

Mr. MANN. Mr. Chairman, I would like to make a suggestion to the gentleman from Louisiana. I desire to address the House at some length on this bill, and I know that there are a number of Members who are anxious to attend the river and harbor convention. I would like to ask the gentleman from Louisiana whether it would be possible for us to make some agreement as to the closing of debate on the next calendar Wednesday and adjourn now?

Mr. WATKINS. If we can agree on a limit for general debate I should be glad to do so. If we can agree upon a limit of one hour I will be willing to let the bill go over.

Mr. MANN. I would like to have one hour myself.

Mr. WATKINS. Well, make it two hours, then.

Mr. MANN. There has not been much time taken by those in opposition to the bill, and I am willing to agree to two hours.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

Mr. SISSON. It is understood, is it, that two hours will be agreed upon in the House?

Mr. MANN and Mr. GARNER. Yes.

Mr. RODDENBERY. Mr. Chairman, I did not hear the tentative agreement between the gentleman from Louisiana and the gentleman from Illinois.

Mr. WATKINS. Quite a number of Members want to attend the river and harbor convention, and a number of Members requested me to give them an opportunity to be away from the House. I did not care to insist on their presence here during the debate, but if we can get an agreement to close debate in two hours I am willing to let the bill go over.

Mr. RODDENBERY. Mr. Chairman, in view of the fact that the Rules Committee have agreed to bring in a special rule permitting consideration of the immigration bill without reference to Calendar Wednesday, I see no objection. But if the Committee on Rules does not propose to bring in a rule of that kind I think we ought to expedite this matter now so that we may reach the bill on Calendar Wednesday notwithstanding.

Mr. MANN. Mr. Chairman, I will say to the gentleman from Georgia [Mr. RODDENBERY], agreeing with him as to the procedure, that if the House should be disposed to proceed to-night I should follow his example and make the point of no quorum, so that I might have some Members present to whom I could address myself.

Mr. GARNER. Mr. Chairman, may I suggest to the gentleman from Georgia that this is in the interest of the expedition of this bill to final conclusion. An agreement in the House to limit the debate to two hours and then take the bill up for consideration under the five-minute rule would be as short a time as one could possibly get consideration of the bill if some one saw proper to insist upon another course.

Mr. RODDENBERY. But that carries this bill over until next Wednesday.

Mr. GARNER. That is true.

Mr. RODDENBERY. Of course if the Committee on Rules should, according to the letter of the chairman, bring in early this session a special rule to consider the immigration bill, then the immigration matter is not relevant to this subject. However, Members, even new Members like myself, with a small smattering idea of procedure, realize and well recognize that it is but dilly-dallying with legislation and trifling with the people to delay for two or three weeks consideration of the immigration bill and then to pass it with great gusto and let it die in conference or in the Senate. I do not want to be a party by acquiescense, by silence, or by inaction to any procedure that is putting up buncomble on the people of this country by going to them and saying we have passed the immigration bill when we know it is passed under such conditions that it is deader than Hector. That is all I was asking about—to get the information. Of course I presume the Committee on Rules will bring in the special rule, according to written promise.

Mr. GARNER. If the gentleman from Georgia will permit, if he objects to the agreement to limit debate to two hours, carrying the bill over until next Wednesday, unless he had a majority to enable him to rise and limit debate by a vote of the House he would be unable to accomplish his purpose in any event.

Mr. RODDENBERY. Of course most of my preliminaries have been carried on in recent days without a majority being in accord with me. We have long ago abandoned the idea of proceeding with a majority on these matters, especially just before an election and right after an election.

Mr. MANN. Do I understand the gentleman will object to the arrangement made?

Mr. RODDENBERY. Oh, not at all, because I can not anticipate that the Committee on Rules will not bring in a special order for the immediate consideration of the immigration bill.

Mr. MANN. I think myself that the committee ought to, although I am not a member of that committee.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, and had come to no resolution thereon.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that general debate on the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be limited to two hours, to be divided equally, one half to be controlled by myself and the other half by the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Louisiana [Mr. WATKINS] asks unanimous consent that general debate on the bill H. R. 16314 be limited to two hours, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. MANN]. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina, by direction of the Committee on Appropriations, reported the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, which was read a first and second time, and, with the accompanying report, referred to the Committee of the Whole House on the state of the Union and ordered printed. (H. Rept. 1262.)

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order on the bill.

Mr. MANN. Mr. Speaker, I would like to make an inquiry of the gentleman from South Carolina. First, I should like to compliment the gentleman and his committee on being able to report this bill so early in the session. I would like to inquire of the gentleman if it is the intention to have the bill printed as some appropriation bills were printed last year—to show the amounts in figures instead of in words?

Mr. JOHNSON of South Carolina. This bill will be printed in figures instead of words.

Mr. MANN. Well, I think that is a great reform that is being instituted.

Mr. JOHNSON of South Carolina. Mr. Speaker, I desire to give notice that to-morrow and on each day thereafter when the bill is in order under the rule I shall press for its consideration until final passage.

EXTENSION OF REMARKS.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that those who have spoken upon the bill under consideration to-day (H. R. 16314) be allowed to extend their remarks.

The SPEAKER. For how long?

Mr. WATKINS. For five days.

The SPEAKER. The gentleman from Louisiana asks unanimous consent that all Members who have spoken on this bill under consideration to-day be given five legislative days in which to extend their remarks. Is there objection? [After a pause.] The Chair hears none.

CONTESTED-ELECTION CASE OF M'LEAN AGAINST BOWMAN.

Mr. ANSBERRY. Mr. Speaker, I desire to give notice that on next Tuesday I shall call up the privileged resolution in the McLean against Bowman election-contest case.

Mr. MANN. Mr. Speaker, may I make an inquiry of the gentleman in reference to that?

Mr. ANSBERRY. I shall be glad to answer any question the gentleman may ask.

Mr. MANN. The legislative appropriation bill will be taken up to-morrow. It might not be finished by next Tuesday; in fact, it would be very unusual if it were finished by that time. Does the gentleman intend to take up the election case on Tuesday in any event or, if the appropriation is not finished, to follow the appropriation bill?

Mr. ANSBERRY. If the appropriation bill is not finished, I shall not insist on the resolution being considered, but under an agreement I have with the gentleman from Iowa [Mr. PROUTY] I want to dispose of it by the 12th of the month if possible, for the reason he is going away and I think they are relying on the gentleman from Iowa [Mr. PROUTY] and the gentleman from Ohio [Mr. WILLIS] to defend Mr. BOWMAN.

Mr. MANN. If the gentleman has an understanding with him, it is not necessary for me to make any inquiry.

Mr. ANSBERRY. I do not mean to say that it is agreed to be taken up Tuesday, but I want to get it out of the road.

Mr. MANN. I understand.

The SPEAKER. The gentleman from Ohio [Mr. ANSBERRY] gives notice that on next Tuesday he will call up the election case of McLean against BOWMAN, not to interfere with the legislative, executive, and judicial appropriation bill. The Chair would like to inquire of the gentleman from South Carolina [Mr. JOHNSON] if he has any idea how long the legislative appropriation bill will take?

Mr. JOHNSON of South Carolina. No; I do not know, but I hope we will get through this week.

CHANGE OF REFERENCE.

The SPEAKER. The Chair desires to make the following announcement.

The Clerk read as follows:

By unanimous consent the reference heretofore made of House Executive Documents Nos. 1001, 995, 999, 1003, and 1005 is hereby vacated and said documents are referred to the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p. m.) the House adjourned to meet to-morrow, Thursday, December 5, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Attorney General of the United States, transmitting a list of useless papers on file in the Department of Justice and requesting authority to have same destroyed (H. Doc. No. 1041); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting a detailed statement of expenses of the Revenue-Cutter Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1035); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

3. A letter from the Secretary of the Navy, transmitting list of Government publications received and distributed by the Navy Department during the fiscal year ended June 30, 1912 (H. Doc. No. 1038); to the Committee on Expenditures in the Navy Department and ordered to be printed.

4. A letter from the Attorney General of the United States, transmitting a statement of expenditures of the United States Court of Customs Appeals for the fiscal year ended June 30, 1912; to the Committee on Expenditures in the Department of Justice and ordered to be printed.

5. A letter from the Secretary of the Navy, transmitting request of employees of the department for increased pay with unfavorable recommendation (H. Doc. No. 1037); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Interior, transmitting a detailed statement of travel expenses incurred by officers and employees of the department when absent from Washington on official business for the fiscal year ended June 30, 1912 (H. Doc. No. 1017); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

7. A letter from the chairman of Interstate Commerce Commission, transmitting a statement of expenses incurred by officials and employees of the commission on account of travel when absent from Washington, D. C., on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1040); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Secretary of the Interior, transmitting statement of expenditures, repair of buildings, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1016); to the Committee on Expenditures in the Interior Department and ordered to be printed.

9. A letter from the First Assistant Secretary of the Interior, transmitting, as required by act of August 24, 1912, result of investigation of conditions on the Yuma Reservation in California, with respect to the necessity of constructing bridge at Yuma, Ariz. (H. Doc. No. 1020); to the Committee on Indian Affairs and ordered to be printed.

10. A letter from the Secretary of the Interior, transmitting a statement of expenditures, contingent expenses, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1012); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

11. A letter from the Secretary of War, transmitting, pursuant to law, a letter from the Acting Chief of Ordnance, United States Army, containing statement of the cost of the manufacture of all types of guns and other articles at the several arsenals of the United States during the fiscal year ended June 30, 1912, (H. Doc. No. 1039); to the Committee on Expenditures in the War Department and ordered to be printed.

12. A letter from the Secretary of the Interior, reporting the number of acres of public lands surveyed during the fiscal year ended June 30, 1912 (H. Doc. No. 1019); to the Committee on the Public Lands and ordered to be printed.

13. A letter from the Secretary of the Interior, transmitting a statement showing distribution of moneys expended for irrigation and drainage, Indian service, for fiscal year 1912 (H. Doc. No. 1034); to the Committee on Indian Affairs and ordered to be printed.

14. A letter from the Secretary of the Interior, transmitting copy of letter from the surgeon in chief of the Freedman's Hospital showing detailed statement of expenditures for salaries, etc. (H. Doc. No. 1029); to the Committee on the District of Columbia and ordered to be printed.

15. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting detailed statement of the contingent expenses of the District of Columbia for the fiscal year ended June 30, 1912 (H. Doc. No. 1042); to the Committee on the District of Columbia and ordered to be printed.

16. A letter from the Secretary of the Interior, submitting, pursuant to section 5, act of August 30, 1890, information as to the amount disbursed to certain States of the Union for support of the colleges for the benefit of agriculture and mechanic arts during the fiscal year ended June 30, 1912 (H. Doc. No. 1030); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

17. A letter from the Secretary of the Treasury, transmitting a statement of expenses incurred by officers and employees of the Treasury Department while traveling on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1036); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

18. A letter from the Librarian of Congress, transmitting annual report of the superintendent of the Library building and grounds for the fiscal year ended June 30, 1912 (H. Doc. No. 962); to the Committee on the Library and ordered to be printed.

19. A letter from the Secretary of the Interior, submitting report showing the diversion of appropriations for pay of specified employees in Indian service for the fiscal year ended June 30, 1912 (H. Doc. No. 1021); to the Committee on Indian Affairs and ordered to be printed.

20. A letter from the Secretary of the Interior, transmitting copy of letter from the superintendent of the Government Hospital for the Insane, with a detailed statement of the receipts and expenditures for all purposes connected with the hospital (H. Doc. No. 1011); to the Committee on the District of Columbia and ordered to be printed.

21. A letter from the Secretary of the Interior, transmitting pursuant to law, result of investigation of conditions on San Carlos Indian Reservation with view to constructing bridges for the use of the Indians across San Carlos Creek and Gila River in the vicinity of San Carlos (H. Doc. No. 1013); to the Committee on Indian Affairs and ordered to be printed.

22. A letter from the Secretary of the Interior, submitting report of expenditures from the permanent fund of the Sioux Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1032); to the Committee on Indian Affairs and ordered to be printed.

23. A letter from the Secretary of the Interior, transmitting detailed report of expenditures of money carried under the caption of "Indian moneys, proceeds of labor," during the fiscal year ended June 30, 1912 (H. Doc. No. 1031); to the Committee on Indian Affairs and ordered to be printed.

24. A letter from the Secretary of the Interior, transmitting report showing the expenditures for encouraging industry among Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1027); to the Committee on Indian Affairs and ordered to be printed.

25. A letter from the Secretary of the Interior, transmitting report of expenditures for encouraging industrial work among the Indians of the Tongue River Reservation, Mont., during the fiscal year ended June 30, 1912 (H. Doc. No. 1033); to the Committee on Indian Affairs and ordered to be printed.

26. A letter from the Secretary of the Interior, transmitting letter of the Acting Commissioner of Indian Affairs, reporting that no Indian tribe for which appropriations were made has engaged in hostilities against the United States or its citizens during the fiscal year ended June 30, 1912 (H. Doc. No. 1022); to the Committee on Indian Affairs and ordered to be printed.

27. A letter from the Secretary of the Interior, reporting that there were no diversions of appropriations for purchase of subsistence for Indian tribes during the fiscal year ended June 30, 1912 (H. Doc. No. 1023); to the Committee on Indian Affairs and ordered to be printed.

28. A letter from the Secretary of the Interior, transmitting report showing expenditures for the relief of destitute Indians for the fiscal year ended June 30, 1912 (H. Doc. No. 1026); to the Committee on Indian Affairs and ordered to be printed.

29. A letter from the Secretary of the Interior, transmitting report regarding the purchase of supplies in the open market for the Indian Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1028); to the Committee on Indian Affairs and ordered to be printed.

30. A letter from the Secretary of the Interior, transmitting statement of expenses for the fiscal year 1912 from the appropriation "Industrial work and care of timber" (H. Doc. No. 1025); to the Committee on Appropriations and ordered to be printed.

31. A letter from the Secretary of the Interior, transmitting statement of cost of survey and allotment work on Indian reservations for the fiscal year 1912 (H. Doc. No. 1024); to the Committee on Indian Affairs and ordered to be printed.

32. A letter from the Secretary of the Interior, transmitting, pursuant to law, result of investigations made as to conditions on the Navajo Indian Reservation at Shiprock, N. Mex., with respect to necessity of constructing bridges across San Juan River at Shiprock (H. Doc. No. 1015); to the Committee on Indian Affairs and ordered to be printed.

33. A letter from the Secretary of the Interior, transmitting statement of documents received and distributed by the Department of the Interior during the fiscal year ended June 30, 1912 (H. Doc. No. 1014); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

34. A letter from the Secretary of the Interior, transmitting, pursuant to law, a list of buildings, etc., contracted for during the fiscal year 1911–12 payable from Indian school and agency buildings appropriations (H. Doc. No. 1018); to the Committee on Indian Affairs and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 26669) for the support and education of the Indian pupils at the Fort Bidwell Indian School, California, and for repairs and improvements, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H. R. 26670) for the support and education of the Indian pupils at the Greenville Indian School, California, for repairs and improvements, to purchase and provide grounds, erect buildings, and furnish the same, and for other purposes; to the Committee on Indian Affairs.

By Mr. PAYNE: A bill (H. R. 26671) for the purchase of a site and the erection thereon of a public building at Lyons, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. KENNEDY: A bill (H. R. 26672) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER: A bill (H. R. 26673) providing for the final disposition of the affairs of the Five Civilized Tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRIEST: A bill (H. R. 26674) authorizing the Secretary of War to donate to the Grand Army Post of Mount Joy, Pa., two bronze or brass cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. BRANTLEY: A bill (H. R. 26675) for the survey of Brunswick (Ga.) Harbor and outer bar; to the Committee on Rivers and Harbors.

By Mr. LAFFERTY: A bill (H. R. 26676) to provide additional entries for certain homestead entrymen in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming; to the Committee on the Public Lands.

By Mr. SULZER: A bill (H. R. 26677) to promote the foreign commerce of the United States, and providing for the relocation of the pierhead line in the Hudson River between pier 1 and West Thirtieth Street, Borough of Manhattan, in the city of New York; to the Committee on Interstate and Foreign Commerce.

By Mr. PROUTY: A bill (H. R. 26678) to facilitate transportation and to prevent the use of railroad cars for storage purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFFERTY: A bill (H. R. 26679) to amend an act entitled "An act to amend section 2291 and section 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. JOHNSON of South Carolina: A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. GARNER: Resolution (H. Res. 731) assigning a certain room in the House wing of the Capitol to the official reporters of debates; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26681) granting an increase of pension to William L. Johnson; to the Committee on Pensions.

By Mr. CANTRILL: A bill (H. R. 26682) granting a pension to Mary E. Ewers; to the Committee on Pensions.

By Mr. CLINE: A bill (H. R. 26683) granting an increase of pension to John Dixon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26684) granting an increase of pension to James H. Rowland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26685) granting an increase of pension to Charles Ehrman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26686) granting an increase of pension to Benjamin F. Conners; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26687) granting an increase of pension to John W. Paulus; to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 26688) granting a pension to Louisa I. Baldwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26689) granting an increase of pension to Caroline A. Dodge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26690) granting an increase of pension to Luther B. Grover; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 26691) for the relief of the estate of Hypolite Abadie, deceased; to the Committee on War Claims.

By Mr. GARRETT: A bill (H. R. 26692) granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26693) granting a pension to Levi William Walden; to the Committee on Pensions.

By Mr. GOEKE (by request): A bill (H. R. 26694) granting an increase of pension to Junius Thomas Turner; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 26695) granting a pension to Charles L. Boggess; to the Committee on Pensions.

Also, a bill (H. R. 26696) granting an increase of pension to Eliza Taggart; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 26697) for the relief of the heirs of John G. Burris; to the Committee on War Claims.

By Mr. JACOWAY: A bill (H. R. 26698) granting an increase of pension to Samuel R. Price; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26699) granting a pension to Harriet L. Newton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26700) granting a pension to Larkin Russell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26701) granting an increase of pension to Regina F. Palmer; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 26703) granting an increase of pension to James Youell, alias James Moses; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26704) granting an increase of pension to George W. Connelly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26705) for the relief of the legal representatives of George W. McGinnis; to the Committee on War Claims.

By Mr. MARTIN of South Dakota: A bill (H. R. 26706) granting an increase of pension to Alonzo Wagoner; to the Committee on Invalid Pensions.

By Mr. NORRIS: A bill (H. R. 26707) granting an increase of pension to John H. Yarger; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 26708) granting an increase of pension to Margurite D. Pollard; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 26709) granting a pension to Ezra R. Fuller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26710) for the relief of John S. Dorshimer; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 26711) granting an increase of pension to T. J. Lindsey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26712) granting an increase of pension to Zachariah T. Alexander; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 26713) granting a pension to George W. Hilton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26714) granting an increase of pension to Newton D. Cantwell; to the Committee on Pensions.

Also, a bill (H. R. 26715) granting an increase of pension to Lefford Mathews; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 26716) granting an increase of pension to John I. White; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26717) granting an increase of pension to Sarah J. Cooper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26718) granting an increase of pension to Sarah J. Hill; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 26719) granting a pension to James C. Boyd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26720) granting a pension to Homer Hoover; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26721) granting an increase of pension to Alexander R. Cating; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 26722) granting an increase of pension to John B. Doolittle; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 26723) granting a pension to Mary A. Millsap; to the Committee on Invalid Pensions.

By Mr. WHITACRE: A bill (H. R. 26724) granting an increase of pension to Chalkley Milbourne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26725) granting an increase of pension to John A. Sapp; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the American Chamber of Commerce in Paris, favoring the enactment of legislation tending to restore the American merchant marine to its former importance; to the Committee on the Merchant Marine and Fisheries.

By Mr. ASHBROOK: Evidence to accompany bill (H. R. 16469) for the relief of Lucien B. Beaumont; to the Committee on Invalid Pensions.

By Mr. AYRES: Petition of the Chamber of Commerce of New York City, protesting against the General Board of Appraisers of New York customhouse being placed under control of Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. DRAPER: Petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. ESCH: Petition of business men of Thorp, Strum, Eleva, Osseo, Mondovi, Eau Claire, Fairchild, Greenwood, Withee, and Owen, Wis., all asking that the Interstate Commerce Commission be given further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FOSS: Petition of Lake Michigan Sanitary Association, Chicago, Ill., favoring an appropriation to investigate the extent of pollution in the lake waters; to the Committee on Interstate and Foreign Commerce.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, papers to accompany bill for granting a pension to Levi William Walden; to the Committee on Pensions.

By Mr. MANN: Petition of the Deep Gulf Waterways Association, Little Rock, Ark., relative to the improvement of the Mississippi River and its harbors, etc.; to the Committee on Rivers and Harbors.

Also, petition of Division No. 1, Order of Railway Conductors, protesting against the passage of the employers' liability and workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, relative to preventing the pollution of the waters of the Great Lakes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the passage of House bill 17736, changing the letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the enactment of legislation changing the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. REILLY: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring a change in the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. STEPHENS of California: Petition of W. S. Hancock Council No. 20, Junior Order United American Mechanics, Los Angeles, Cal., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of Texas: Petition of citizens of the thirteenth congressional district of Texas, favoring passage of bill for eradication of the Russian thistle; to the Committee on Agriculture.

By Mr. SULZER: Petition of citizens of New York and Pittsburgh, Pa., favoring the passage of House bill 26277, establishing a United States Court of Appeals; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Chamber of Commerce of New Haven, Conn., favoring the passage of bill making appropriation for the improvement of the New Haven Harbor; to the Committee on Appropriations.

SENATE.

THURSDAY, *December 5, 1912.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

LUKE LEA, a Senator from the State of Tennessee, and ROBERT L. OWEN, a Senator from the State of Oklahoma, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

ANNUAL REPORT OF THE ATTORNEY GENERAL (H. DOC. NO. 930).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate the annual report of the Attorney General for the fiscal year ended June 30, 1912, which was ordered to lie on the table and be printed.

CITIZENSHIP IN PORTO RICO (S. DOC. NO. 968).

The PRESIDENT pro tempore laid before the Senate a communication from the Chief of the Bureau of Insular Affairs, transmitting, at the request of the Governor of Porto Rico, a petition adopted at a mass meeting of workingmen of Porto Rico, praying for the enactment of legislation granting American citizenship to the people of that Territory, which was referred to the Committee on Pacific Islands and Porto Rico and ordered to be printed.